

# ***NORTH CAROLINA REGISTER***

**VOLUME 36 • ISSUE 21 • Pages 1678 – 1764**

**May 2, 2022**

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For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address but are not inclusive.

### **Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.**

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2022 – December 2022

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
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37:06	09/15/22	08/24/22	09/30/22	11/14/22	11/21/22	12/15/2022	01/01/23	06/12/23
37:07	10/03/22	09/12/22	10/18/22	12/02/22	12/20/22	01/19/2023	02/01/23	06/30/23
37:08	10/17/22	09/26/22	11/01/22	12/16/22	12/20/22	01/19/2023	02/01/23	07/14/23
37:09	11/01/22	10/11/22	11/16/22	01/03/23	01/20/23	02/16/2023	03/01/23	07/29/23
37:10	11/15/22	10/24/22	11/30/22	01/17/23	01/20/23	02/16/2023	03/01/23	08/12/23
37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## **EXPLANATION OF THE PUBLICATION SCHEDULE**

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### **GENERAL**

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### **FILING DEADLINES**

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### **NOTICE OF TEXT**

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

April 1, 2022

## EXECUTIVE ORDER NO. 256

### EXTENDING CERTAIN HEALTH AND HUMAN SERVICES PROVISIONS IN PREVIOUS EXECUTIVE ORDERS AND DELEGATIONS OF AUTHORITY

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-177, 180-181, 183-185, 195, 197-198, 200, 204-207, 209-212, 215-217, 219-221, 224-225, 228-232, 234, 236, 238-240, 244-245 and 252-253; and

**WHEREAS**, the state has experienced a sustained period of decline of the daily number of diagnosed COVID-19 cases, COVID-19 associated hospitalizations, and emergency room visits for COVID-19-like symptoms; and

**WHEREAS**, the North Carolina Department of Health and Human Services ("NCDHHS") recently modified its key COVID-19 metrics to also take into account wastewater surveillance data, vaccination and booster rates, prevalence of variants across the state, and data from the Centers for Disease Control and Prevention ("CDC") identifying levels of community spread of COVID-19; and

**WHEREAS**, these metrics, taken together, indicate declining COVID-19 transmission across North Carolina and declining severity of disease and hospital burden from COVID-19; and

**WHEREAS**, however, COVID-19 continues to infect North Carolinians every day and new SARS-CoV-2 subvariants are emerging; and

**WHEREAS**, a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

**WHEREAS**, as of the date of this Executive Order, there have been more than two million six hundred and twenty-nine thousand (2,629,000) reported cases of COVID-19 in North Carolina, and more than twenty three thousand two hundred (23,200) people in North Carolina have died from the disease; and

**WHEREAS**, in Executive Order Nos. 130, 139 and 152, the undersigned, with the concurrence of the Council of State, determined that the Secretary of the North Carolina Department of Health and Human Services (the "Secretary") required authority to modify or waive enforcement of certain legal constraints or regulations which restrict the immediate relief of human suffering; and

**WHEREAS**, certain provisions of Executive Order Nos. 130 and 139 were extended by Executive Order Nos. 144, 148, 152, 165, 177, 193, 211, 225, 236, and 245 but these provisions are set to expire unless the undersigned takes further action; and

**WHEREAS**, to ensure that the state's health care system can effectively respond to current needs and any future surges in COVID-19 cases and associated hospitalizations, and for the other reasons specified herein, it is anticipated that the need for the remaining measures in Executive Orders Nos. 130 and 139 will continue until July 15, 2022; and

**WHEREAS**, statewide standing orders for testing, treatment, and vaccines are being utilized by providers across the state to increase access to COVID-19 diagnosis, mitigation and prevention services; and

**WHEREAS**, most schools do not have a medical provider on staff who can order COVID-19 testing in schools, and accordingly are reliant on the standing order to conduct school-based COVID-19 testing; and

**WHEREAS**, NCDHHS has requested that the General Assembly enact legislation to implement, on a long-term basis, certain regulatory flexibilities temporarily extended by this Executive Order; and

#### COVID-19 Vaccinations in North Carolina

**WHEREAS**, until enough North Carolinians are vaccinated, COVID-19 will continue to cause devastating illness and death; and

**WHEREAS**, rigorous clinical trials have demonstrated that the FDA-authorized and approved COVID-19 vaccinations are safe and effective; and

**WHEREAS**, COVID-19 vaccines help protect people from severe illness, hospitalization and death and slow the spread of viral transmission and higher rates of COVID-19 vaccination in a community are associated with reduced hospitalizations and deaths; and

**WHEREAS**, the vaccine is free to all North Carolinians, regardless of insurance status; and

**WHEREAS**, COVID-19 vaccines are now readily available for children ages five (5) and above; and

**WHEREAS**, with vaccines, treatment, and other tools to combat COVID-19 widely available, NCDHHS is adapting its response for the current stage of the pandemic, outlined in its "Moving Forward Together" endemic strategy plan; and

#### Regulatory Flexibility to Address COVID-19: Prohibitions on Excessive Pricing

**WHEREAS**, North Carolina and its mental health, developmental disabilities, and substance abuse facilities and service providers need to take all reasonable actions to expand

capacity to improve the ability to efficiently respond to the COVID-19 pandemic, thereby reducing the probability that the demand for care in North Carolina will outpace capacity; and

**WHEREAS**, in some cases, these actions have required and will continue to require temporarily waiving or modifying legal and regulatory constraints so that these mental health, developmental disability, and substance abuse facilities and service providers can maintain licensure and continue to provide necessary services; and

**WHEREAS**, decisions about adding and transferring resources continue to require real-time decision-making; and

**WHEREAS**, to continue to enable rapid decision-making, the undersigned has determined that it is in the best interest of the people of North Carolina to provide the Secretary with authority to modify or waive enforcement of certain legal and regulatory constraints as necessary in order to expand capacity and save lives; and

**WHEREAS**, for example, health care providers are needed to administer the COVID-19 vaccine, however, many individuals with medical training are not authorized to administer vaccines due to licensing requirements; accordingly, the undersigned wishes to remove any such barriers which would prevent or impair the ability of these medical personnel from assisting with vaccine administration; and

**WHEREAS**, to prevent barriers to vaccine administration, it is also critically important that those administering the vaccine, and those providing their property and facilities for purposes of vaccine administration, are provided with insulation from liability to the maximum extent permitted by law; and

**WHEREAS**, the process of vaccinating North Carolinians to levels sufficient to protect the population requires comprehensive and aggressive statewide efforts together with robust community participation; and

**WHEREAS**, accordingly, state officials are directed to marshal all available state property, equipment, and personnel towards facilitating the statewide vaccination effort; and

**WHEREAS**, the State Health Director has been assigned authority by the Secretary, pursuant to N.C. Gen. Stat. § 130A-3, to exercise authorities under N.C. Gen. Stat. § 130A-5, including to investigate the causes of communicable disease affecting the public health in order to control and prevent those diseases, to provide, under the rules of the North Carolina Commission for Public Health, for the prevention, detection, reporting, and control of communicable diseases, and to develop and carry out health programs necessary for the protection and promotion of the public health and the control of diseases; and

**WHEREAS**, in Executive Order No. 245, the undersigned directed the State Health Director, in addition to and according to her authority in N.C. Gen. Stat. 130A, to issue any statewide standing order needed in her medical judgement to facilitate COVID-19 testing, vaccination, monoclonal antibodies and other therapeutic treatment; and

**WHEREAS**, the undersigned desires that the statewide standing orders for COVID-19 testing, vaccination, and therapeutic treatment continue through the effective date of this Executive Order; and

**WHEREAS**, COVID-19 leaves North Carolinians vulnerable to price gouging on consumer goods needed to diagnose and treat COVID-19 and to respond to the pandemic, and the prohibitions on excessive pricing are in effect through the duration of this Executive Order; and

**Statutory Authority and Determinations**

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2) the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(4) gives the undersigned the authority to “cooperate and coordinate” with the President of the United States; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(7) the undersigned is authorized and empowered to utilize the services, equipment, supplies, and facilities of departments, offices, and agencies of the state in response to the emergency; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1) the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2) the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(2), the undersigned, with the concurrence of the Council of State, may establish a system of economic controls over all resources, materials, and services, including shelter and rents; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency or political subdivision which restricts the immediate relief of human suffering; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5), the undersigned, with the concurrence of the Council of State, may perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.23, in conjunction with N.C. Gen. Stat. §§ 75-37 and 75-38, the undersigned may issue a declaration that shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency, or normal market disruptions; and

**WHEREAS**, the undersigned has sought and obtained concurrence from the Council of State on the provisions of this Executive Order requiring concurrence, consistent with the Governor’s emergency powers authority in N.C. Gen. Stat. § 166A-19.30; and

**WHEREAS**, all the authority granted by this Executive Order is intended to be temporary, and the waivers and modifications of enforcement set out in this Executive Order are intended to extend only through the period where they are needed to address the COVID-19 pandemic.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and for the reasons and pursuant to the authority in Executive Orders Nos. 130, 139, 144, 148, 152, 165, 177, 193, 211, 225, 236, and 245, **IT IS ORDERED:**

**Section I. Extension of Executive Order No. 152.**

To meet the goal of providing health care, public health, and human services during the COVID-19 pandemic, which includes the administration of FDA-authorized COVID-19 vaccines, and to protect and save lives during the COVID-19 pandemic, the undersigned orders as follows:



Executive Order No. 152, as amended by Executive Order No. 165 and as extended by Executive Order No. 177, and as further modified and extended by Executive Order Nos. 193, 211, 225, 236, and 245, is extended by this Executive Order, and is to be in effect through July 15, 2022.

For avoidance of doubt, the preceding sentence also extends through the listed date the provisions of Executive Orders Nos. 130 and 139 that were previously extended by Executive Orders Nos. 193, 211, 225, 236, and 245 and have not been rescinded by this Executive Order.

References to "September 22, 2020," "November 20, 2020," "February 11, 2021," "February 18, 2021," "May 10, 2021," "August 8, 2021," "October 5, 2021," "January 5, 2022," or "April 5, 2022" in Executive Orders Nos. 152, 165, 177, 193, 211, 225, 236, and 245 shall be replaced with "July 15, 2022."

**Section II. Statewide Standing Orders for COVID-19 Testing, Vaccination, Monoclonal Antibodies, and other COVID-19 Therapeutics.**

- A. Statewide Standing Order for COVID-19 Testing. In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order.
- B. Statewide Standing Order for COVID-19 Vaccination. In order to further protect public health by providing greater access to COVID-19 vaccines, the undersigned orders the State Health Director, consistent with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue such statewide standing orders as needed in her medical judgment that would allow individuals eligible for vaccinations to access and receive a COVID-19 vaccination, subject to the terms of the standing order.
- C. Statewide Standing Order for COVID-19 Therapeutics. In order to further protect the public health by providing greater access to COVID-19 prevention or treatment, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet the criteria in the Food and Drug Administration Emergency Use Authorization or Approval specific to the therapy to access and receive monoclonal antibodies, or who meet the criteria in the Food and Drug Administration Emergency Use Authorization or Approval specific to the therapy of any other therapeutic intended to prevent or treat COVID-19, subject to the terms of the standing order.
- D. Amendment. Subsections 3(C)(1)-(2) of Executive Order No. 130 and Subsections 2(B)(1)-(2) of Executive Order No. 193 are each amended to read as follows:
  1. All persons who are licensed or otherwise authorized under an Executive Order to perform vaccinations, COVID-19 testing, or administer FDA- authorized or approved therapeutics intended to prevent or treat COVID-19 or issue medical standing orders for vaccinations, testing, or the administration of antibody therapeutics intended to prevent or treat COVID-19, to the extent they are providing emergency services, therefore constitute "emergency management workers" to the extent allowed under N.C. Gen. Stat. § 166A-19.60(e).
  2. Therefore, the undersigned intends that all such emergency management workers should be insulated from civil liability to the maximum extent authorized by N.C. Gen. Stat. § 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith.

**Section III. Extension of Prohibition on Price Gouging.**

Pursuant to N.C. Gen. Stat. § 166A-19.23, the prohibition against excessive pricing is hereby extended, as provided in N.C. Gen. Stat. §§ 75-37 and 75-38, through July 15, 2022.

The undersigned encourages the North Carolina Attorney General to use all resources available to monitor reports of abusive trade practices towards consumers and make readily available opportunities to report to the public any price gouging and unfair or deceptive trade practices under Chapter 75 of the North Carolina General Statutes.

**Section IV. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section V. Effective Date.**

This Executive Order is effective immediately and this Executive Order shall remain in effect through July 15, 2022, unless rescinded or replaced with a superseding Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 1<sup>st</sup> day of April in the year of our Lord two thousand and twenty-two.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

**TITLE 02 – DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Structural Pest Control Committee intends to amend the rule cited as 02 NCAC 34 .0904.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**

<http://www.ncagr.gov/AdministrativeRules/ProposedRules/index.htm>

**Proposed Effective Date:** September 1, 2022

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than May 17th, 2022 to James W., Burnette, Jr., Secretary, NC Structural Pest Control Committee, 1090 Mail Service Center, Raleigh NC 27699-1090.*

**Reason for Proposed Action:** State pesticide regulatory agencies issue certifications to pesticide applicators who demonstrate, under a US Environmental Protection Agency (EPA)-approved program, that they can use the products safely. Under EPA's 2017 final rule for certification of pesticide applicators (40 CFR Part 171), States with existing EPA[1]approved plans are required to submit proposed modifications to comply with the federal standards. This action is required of the NC Structural Pest Control Committee by the EPA in order for North Carolina's state plan for certification of structural pest control licensees, certified applicators, and noncertified applicators to remain in compliance with 40 CFR 171.303 (7): (7) The application for Agency approval of a State certification plan must include a complete copy of all State laws and regulations relevant to the State certification plan. In addition, the application for Agency approval of a State plan must include citations to the specific State laws and regulations that demonstrate specific legal authority for each of the following: (i) Provisions for and listing of the acts which would constitute grounds for denying, suspending, and revoking certification of applicators. Such grounds must include, at a minimum, misuse of a pesticide, falsification of any records required to be maintained by the certified applicator, a criminal conviction under section 14(b) of FIFRA, a final order imposing civil penalty under section 14(a) of FIFRA, and conclusion of a State enforcement action for violations of State laws or regulations relevant to the State certification plan. Sections 14(a) and (b) of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 USC 136l(a) and (b)).

**Comments may be submitted to:** James W. Burnette, Jr., 1090 Mail Service Center, Raleigh, NC 27699-1090; email [james.burnette@ncagr.gov](mailto:james.burnette@ncagr.gov)

**Comment period ends:** July 1, 2022

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 34 - STRUCTURAL PEST CONTROL**

**SECTION .0900 - DUTIES AND RESPONSIBILITIES OF  
LICENSEE**

**02 NCAC 34 .0904 PROHIBITED ACTS**

- (a) No reference shall be made by any certified applicator, licensee, business establishment, or business entity in any form of advertising that would indicate approval, endorsement, or recommendation by the Committee or by any agency of the federal government or North Carolina State, county, or city government.
- (b) The use of a structural pest control license(s), certified applicator's identification card(s), registered technician's identification card(s), or licensee identification card(s) for any purpose other than identification is prohibited.
- (c) In solicitation of structural pest control business, no licensee or his or her employees shall claim that inspections or treatments are required, authorized, or endorsed by any agency of the federal government or North Carolina State, county, or city government unless said agency states that an inspection or treatment is required for a specific structure.
- (d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he or she does not hold a valid license(s) as

provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or registered technician's identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.

(e) The impersonation of any North Carolina State, county, or city inspector or any other governmental official is prohibited.

(f) No licensee, certified applicator or registered technician's identification card holder shall advertise or hold himself or herself out in any manner in connection with the practice of structural pest control as an entomologist, plant pathologist, horticulturist, public health engineer, sanitarian, unless such person shall be qualified in such field(s) by required professional and educational standards for the title used.

(g) No certified applicator, licensee, or his or her employees shall represent to any property owner or his or her authorized agent or occupant of any structure that any specific pest is infesting ~~said~~ any property, structure, or surrounding areas ~~thereof~~, unless ~~strongly supporting~~ visible evidence of such infestation exists.

(h) No certified ~~applicator or licensee~~ applicator, licensee, or their employees shall authorize, direct, assist, or aid in the publication, advertisement, distribution, or circulation of any material by false statement or representation concerning the licensee's structural pest control business or business of the company with which he or she is employed.

(i) No certified ~~applicator or licensee~~ applicator, licensee, or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate; provided, however, when there is a sale of a business or other name change the company may use both names together for a period not to exceed three years from the date of the name change or sale of business.

(j) No certified applicator shall use any name style on his or her certified applicator's identification card which contains the words "~~exterminating~~", "exterminating," "pest control," or any other words which imply that he or she provides pest control services for a valuable consideration unless he or she is a licensee or a duly authorized agent or employee of a licensee.

(k) No licensee issued an inactive license shall engage in any phase of structural pest control under ~~such an~~ an inactive ~~license~~ license issued by the committee.

(l) No licensee, certified applicator, or registered technician shall indicate on any foundation diagram prepared pursuant to 02 NCAC 34 .0601 or 02 NCAC 34 .0605 that hidden damage or possible hidden damage due to any wood-destroying organism exists in a structure unless there is visible evidence of infestation or damage present in the immediate area of the alleged hidden damage.

(m) No pesticide shall be applied for the purpose of performing structural pest control when the conditions at the site of application favor drift or runoff from the target site.

(n) A final order imposing civil liability under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 USC 136l(a)) against any licensee, certified applicator, or non-certified applicator, or a criminal conviction, entry of a plea of guilty, or of nolo contendere under Section 14(b) of FIFRA (7 USC 136l(b)), by a licensee, certified applicator, or non-certified applicator shall constitute grounds for the denial,

suspension, or revocation of any license or certification issued by the committee.

Authority G.S. 106-65.23; 106-65.29.

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## TITLE 12 – DEPARTMENT OF JUSTICE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0101 and .0103.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

**Proposed Effective Date:** *September 1, 2022*

**Public Hearing:**

**Date:** *July 11, 2022*

**Time:** *10:00 a.m.*

**Location:** *1700 Tryon Park Drive Raleigh NC 27610*

**Reason for Proposed Action:** *To make consistent with the Sheriffs' Education and Training Standards Commission.*

**Comments may be submitted to:** *Charminique D. Williams, 1700 Tryon Park Drive, Raleigh, NC 27610*

**Comment period ends:** *July 11, 2022*

**Procedure for Subjecting a Proposed Rule to Legislative**

**Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

## CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

**SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT; EDUCATION; AND TRAINING**

**SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT**

**12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE LAW ENFORCEMENT OFFICERS**

Every ~~criminal justice law enforcement~~ officer who is employed in or has received a conditional offer of employment for a certified position by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age; ~~and be at least 18 years of age for telecommunicators;~~
- (3) be a high school graduate, or the equivalent as defined in 12 NCAC 09B .0106;
- (3) ~~be of good moral character pursuant to G.S. 17C 10 as evidenced by the following:~~
  - (a) ~~not having been convicted of a felony;~~
  - (b) ~~not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;~~
- (4) have been fingerprinted by the employing agency in the manner provided in 12 NCAC 09B .0103;
- (5) have had a medical examination as required by 12 NCAC 09B .0104;
  - (e) ~~not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf>;~~
  - (d) ~~having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at <https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list>;~~

- (e) ~~submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;~~
- (f) ~~being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;~~
- (g) ~~not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C 13; and~~
- (h) ~~not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.~~
- (4) ~~have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;~~
- (6)(5) ~~have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications: as described in 12 NCAC 09C .0310;~~
  - (a) ~~the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;~~

- (b) ~~a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;~~
- (c) ~~the drug screen shall test for the presence of at least cannabis, cocaine, phenylclidine (PCP), opiates, and amphetamines or their metabolites;~~
- (d) ~~the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;~~
- (e) ~~the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and~~
- (f) ~~the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;~~
- (7)(6) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening examination shall be valid for a period of one year from the date on which it was administered.
- (8)(7) ~~have been interviewed personally by the department head or the department head representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate; and as described in 12 NCAC 09B .0105; and~~
- (9) have a background investigation conducted by the employing agency, including a personal interview as required by 12 NCAC 09B .0102;
- (10) not have committed or been convicted of a crime or crimes as specified in 12 NCAC 09B .0111;
- (11) for personnel who are authorized to carry a firearm in the execution of their duties, satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106. Such firearms training compliance must have occurred prior to submission of the application for appointment to the Commission and must be completed using the agency approved service handgun(s) and any other weapons(s) that the  
applicant has been issued or authorized to use by the agency; and
- (12) be of good moral character as defined in: In re Willis 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); In re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); In re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions.
- (13)(8) ~~make~~ Make the following notifications:
  - (a) ~~within 30 days~~ five business days of the qualifying event notify the Standards Division and the appointing ~~department~~ agency head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (b) ~~within 30 days~~ five business days of the qualifying event notify the Standards Division and the appointing ~~department~~ agency head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
  - (c) ~~within 30 days~~ five business days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
  - (d) ~~within 30 days~~ five business days of the date the case was disposed of in court, the ~~department~~ agency head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
  - (e) ~~within 30 days~~ five business days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the ~~department~~ agency head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.

- (9) (f) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the ~~department~~ agency head, shall be sufficient notice for compliance with this Item.
- (14) The requirements of this Rule shall apply to all applicants for certification and shall also apply at all times during which the law enforcement officer is certified by the Commission.

*Authority G.S. 17C-6; 17C-10.*

#### **12 NCAC 09B .0103 FINGERPRINT CRIMINAL HISTORY RECORD CHECK**

- (a) Each applicant for employment certification shall submit electronic fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS), fingerprinted twice, using FBI Form FD 258, Fingerprint Record Card.
- (b) The employing agency ~~shall check the applicant's fingerprints against local files and shall forward both completed the applicant's fingerprints fingerprint forms~~ to the North Carolina State Bureau of Investigation for fingerprint and a criminal history record check checks utilizing fingerprints against state and federal files.
- (c) The employing agency will receive a report of the results of the fingerprint criminal history record check utilizing fingerprints against state and federal files. ~~Regardless of the disposition of the inquiry, the~~ The employing agency shall ~~permanently~~ retain the results of the fingerprint criminal history record check utilizing fingerprints in the applicant's personnel file. compliance with the North Carolina Department of Natural and Cultural Resources Retention and Disposition Schedule established pursuant to G.S. 121 and G.S. 132. The employing agency shall include the results of the fingerprint criminal history record check with the applications submitted to the Commission.
- (d) An applicant for employment certification as a law enforcement officer may not ~~be employed or placed in a perform~~

any action sworn law enforcement position requiring certification by the Commission prior to the date on which the employing agency ~~receives~~ receives the report of the results of the fingerprint criminal history record check utilizing fingerprints. ~~check unless all of the following requirements are met:~~

- (1) ~~The employing department head determines that the delay in receiving the fingerprint record check will result in undue hardship to the agency and certifies that determination to the Commission.~~
- (2) ~~The preliminary criminal history investigation conducted by the employing agency has failed to disclose any disqualifying criminal record.~~
- (3) ~~The applicant meets all of the minimum standards for employment and certification contained in this Subchapter.~~
- (4) ~~The Fingerprint Record Cards have in fact been executed, delivered to, and received by the State Bureau of Investigation for the purpose of a criminal history search.~~
- (5) ~~The applicant has completed and signed the applicant's certificate (Section A) of the Commission's Report of Appointment, wherein the applicant's temporary employment and probationary law enforcement officer certification is acknowledged to be contingent on the consistency of the fingerprint record check with the information provided in the Personal History Statement Form.~~

(e) ~~An applicant for employment as a criminal justice officer other than a law enforcement officer may be employed prior to the date on which the employing agency receives the report of the results of the fingerprint record check, if all of the following requirements are met:~~

- (1) ~~The completed Fingerprint Record Cards have been forwarded to and received by the State Bureau of Investigation.~~
- (2) ~~The applicant meets all other minimum requirements for employment and certification.~~
- (3) ~~The applicant's continued employment is contingent upon the agency's review and evaluation of the results of the fingerprint record check.~~

*Authority G.S. 17C-6; 17C-10.*

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**APPROVED RULES**

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*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

*Rules approved by the Rules Review Commission at its meeting on March 17, 2022 Meeting.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT****HHS - HEALTH BENEFITS, DIVISION OF**

Conducting Department Appeal Hearings by Telephone or Ele... 10A NCAC 21A .0304\* 35:23 NCR

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

Responsibilities of the School Director 12 NCAC 09B .0202\* 36:12 NCR  
Criminal Justice Instructor Training 12 NCAC 09B .0209\* 36:12 NCR  
Radar Instructor Training Course 12 NCAC 09B .0210\* 36:12 NCR  
Time-Distance Instructor Training Course 12 NCAC 09B .0211\* 36:12 NCR  
Certification Training for Radar Operators 12 NCAC 09B .0212\* 36:12 NCR  
Certification Training for Radar/Time-Distance Operators 12 NCAC 09B .0213\* 36:12 NCR  
Certification Training for Time-Distance Operators 12 NCAC 09B .0214\* 36:12 NCR  
Specialized Firearms Instruction Training 12 NCAC 09B .0226\* 36:12 NCR  
Specialized Subject Control Arrest Techniques Instructor ... 12 NCAC 09B .0232\* 36:12 NCR  
Specialized Physical Fitness Instructor Training 12 NCAC 09B .0233\* 36:12 NCR  
LIDAR Instructor Training Course 12 NCAC 09B .0237\* 36:12 NCR  
Certification Training for LIDAR Operators 12 NCAC 09B .0238\* 36:12 NCR  
Certification Training for Radar/Lidar Operators 12 NCAC 09B .0242\* 36:12 NCR  
Certification Training for Radar/Time-Distance/LIDAR Oper... 12 NCAC 09B .0244\* 36:12 NCR  
Trainee Attendance 12 NCAC 09B .0404\* 36:12 NCR  
Specialized Explosives and Hazardous Materials Instructor... 12 NCAC 09B .0417\* 36:12 NCR  
Instructor Training 12 NCAC 09G .0414\* 36:12 NCR  
Corrections Specialized Instructor Training - Firearms 12 NCAC 09G .0415\* 36:12 NCR  
Corrections Specialized Instructor Training - Controls, R... 12 NCAC 09G .0416\* 36:12 NCR

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

Report of Separation 12 NCAC 10B .0405\* 36:10 NCR

**LABOR, DEPARTMENT OF**

Definitions 13 NCAC 13 .0101\* 36:11 NCR  
Incorporated - Standards 13 NCAC 13 .0103\* 36:11 NCR  
Name: Address 13 NCAC 13 .0201\* 36:11 NCR  
Inspector Qualification 13 NCAC 13 .0202\* 36:11 NCR  
North Carolina Commission 13 NCAC 13 .0203\* 36:11 NCR  
Owner-User Inspection Organization 13 NCAC 13 .0205 36:11 NCR  
Inspection Reports 13 NCAC 13 .0207 36:11 NCR  
Shop Inspections and National Board "R" Certifi... 13 NCAC 13 .0210 36:11 NCR  
Certificate Inspections 13 NCAC 13 .0211\* 36:11 NCR  
Certificate and Inspection Fees 13 NCAC 13 .0213\* 36:11 NCR  
Extended Pressure Equipment Operating Certificates 13 NCAC 13 .0214\* 36:11 NCR



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**APPROVED RULES**

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<u>Inspections Revealing Deficiencies</u>	13 NCAC	13	.0303*	36:11 NCR
<u>Design and Construction Standards</u>	13 NCAC	13	.0401*	36:11 NCR
<u>North Carolina Stamping and Registration</u>	13 NCAC	13	.0402*	36:11 NCR
<u>Pressure Relief Devices</u>	13 NCAC	13	.0405*	36:11 NCR
<u>High Pressure or Temperature Limit Control</u>	13 NCAC	13	.0406*	36:11 NCR
<u>Automatic Low-Water Fuel Cutoff Controls and Water-Feedin...</u>	13 NCAC	13	.0409*	36:11 NCR
<u>Firing Mechanism Controls</u>	13 NCAC	13	.0420*	36:11 NCR
<u>Exhibition Boilers</u>	13 NCAC	13	.0422*	36:11 NCR
<u>Model Hobby Boilers</u>	13 NCAC	13	.0423*	36:11 NCR
<u>Standards</u>	13 NCAC	13	.0701*	36:11 NCR

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Groundwater Quality Standards</u>	15A NCAC	02L	.0202*	35:14 NCR
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**MARINE FISHERIES COMMISSION**

<u>Ocean Fishing Piers</u>	15A NCAC	03I	.0108*	36:03 NCR
<u>Replacement Costs of Marine and Estuarine Resources - Fish</u>	15A NCAC	03I	.0115*	36:03 NCR
<u>User Conflict Resolution</u>	15A NCAC	03I	.0122*	36:03 NCR
<u>Fishing Gear</u>	15A NCAC	03J	.0401*	36:03 NCR
<u>Horseshoe Crabs</u>	15A NCAC	03L	.0207*	36:03 NCR
<u>Spiny Lobster</u>	15A NCAC	03L	.0302*	36:03 NCR
<u>Spanish and King Mackerel</u>	15A NCAC	03M	.0301	36:03 NCR
<u>Bluefish</u>	15A NCAC	03M	.0511	36:03 NCR
<u>Cobia</u>	15A NCAC	03M	.0516	36:03 NCR

**COASTAL RESOURCES COMMISSION**

<u>Purpose</u>	15A NCAC	07H	.1101	34:09 NCR
<u>Approval Procedures</u>	15A NCAC	07H	.1102*	34:09 NCR
<u>Permit Fee</u>	15A NCAC	07H	.1103	34:09 NCR
<u>General Conditions</u>	15A NCAC	07H	.1104*	34:09 NCR
<u>Specific Conditions</u>	15A NCAC	07H	.1105*	34:09 NCR
<u>Purpose</u>	15A NCAC	07H	.1801*	34:09 NCR
<u>Approval Procedures</u>	15A NCAC	07H	.1802*	34:09 NCR
<u>Permit Fee</u>	15A NCAC	07H	.1803	34:09 NCR
<u>General Conditions</u>	15A NCAC	07H	.1804*	34:09 NCR
<u>Specific Conditions</u>	15A NCAC	07H	.1805*	34:09 NCR

**MARINE FISHERIES COMMISSION**

<u>Definitions</u>	15A NCAC	18A	.0134*	36:03 NCR
<u>Applicability of Rules</u>	15A NCAC	18A	.0136	36:03 NCR
<u>General Requirements for Operation</u>	15A NCAC	18A	.0137	36:03 NCR
<u>Supervision</u>	15A NCAC	18A	.0138*	36:03 NCR
<u>Facility Flooding</u>	15A NCAC	18A	.0139	36:03 NCR
<u>Insect Control</u>	15A NCAC	18A	.0144	36:03 NCR
<u>Rodent and Animal Control</u>	15A NCAC	18A	.0145*	36:03 NCR
<u>Water Supply</u>	15A NCAC	18A	.0147*	36:03 NCR
<u>Ice</u>	15A NCAC	18A	.0148*	36:03 NCR
<u>Plumbing</u>	15A NCAC	18A	.0149*	36:03 NCR

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**APPROVED RULES**

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<u>Toilets</u>	15A NCAC	18A	.0151	36:03 NCR
<u>Solid Waste</u>	15A NCAC	18A	.0152	36:03 NCR
<u>Person Hygiene</u>	15A NCAC	18A	.0153*	36:03 NCR
<u>Equipment and Utensil Construction</u>	15A NCAC	18A	.0156*	36:03 NCR
<u>Facility and Equipment Sanitation</u>	15A NCAC	18A	.0157*	36:03 NCR
<u>Equipment Storage</u>	15A NCAC	18A	.0158*	36:03 NCR
<u>Crustacea Cooking</u>	15A NCAC	18A	.0161*	36:03 NCR
<u>Cooked Crustacea Air-Cool</u>	15A NCAC	18A	.0162	36:03 NCR
<u>Cooked Crustacea Picking</u>	15A NCAC	18A	.0164*	36:03 NCR
<u>Packing</u>	15A NCAC	18A	.0165*	36:03 NCR
<u>Picked Crustacea Meat</u>	15A NCAC	18A	.0166*	36:03 NCR
<u>Single-Service Containers</u>	15A NCAC	18A	.0168*	36:03 NCR
<u>Repacking</u>	15A NCAC	18A	.0173*	36:03 NCR
<u>Pasteurization Process Controls - Thermometers</u>	15A NCAC	18A	.0174*	36:03 NCR
<u>Preparation of Crustacea Meat for Pasteurization</u>	15A NCAC	18A	.0175*	36:03 NCR
<u>Pasteurization of Crustacea Meat</u>	15A NCAC	18A	.0176*	36:03 NCR
<u>Labeling of Pasteurized Crustacea Meat</u>	15A NCAC	18A	.0177*	36:03 NCR
<u>Interfacility Pasteurization Procedures</u>	15A NCAC	18A	.0178*	36:03 NCR
<u>Embargo or Disposal of Cooked Crustacea or Crustacea Meat</u>	15A NCAC	18A	.0181	36:03 NCR
<u>Bacteriological and Contamination Standards</u>	15A NCAC	18A	.0182*	36:03 NCR
<u>Alternative Labeling</u>	15A NCAC	18A	.0183*	36:03 NCR
<u>Thermal Processing Controls - Thermometers</u>	15A NCAC	18A	.0184*	36:03 NCR
<u>Thermal Processing of Crustacea and Crustacea Meat</u>	15A NCAC	18A	.0185*	36:03 NCR
<u>Labeling of Thermally Processed Crustacea and Crustacea Meat</u>	15A NCAC	18A	.0186*	36:03 NCR
<u>Interfacility Thermal Processing Procedures</u>	15A NCAC	18A	.0187*	36:03 NCR
<u>Monitoring Records</u>	15A NCAC	18A	.0191*	36:03 NCR

**BARBER EXAMINERS, BOARD OF**

<u>Physical Structure</u>	21 NCAC	06F	.0101*	36:07 NCR
<u>Equipment</u>	21 NCAC	06L	.0103	36:07/36:11 NCR
<u>Sanitary Ratings and Posting of Ratings</u>	21 NCAC	06L	.0118*	36:11 NCR
<u>Fees, Access to Forms, and Renewals</u>	21 NCAC	06N	.0101	36:07 NCR

*The following rules are subject to Legislative Review.*

**MARINE FISHERIES COMMISSION**

<u>Gill Nets, Seines, Identification, Restrictions</u>	15A NCAC	03J	.0103*	36:03 NCR
<u>Trawl Nets</u>	15A NCAC	03J	.0104*	36:03 NCR
<u>Channel Nets</u>	15A NCAC	03J	.0106*	36:03 NCR
<u>Fyke or Hoop Nets</u>	15A NCAC	03J	.0111*	36:03 NCR
<u>Atlantic Ocean</u>	15A NCAC	03J	.0202*	36:03 NCR
<u>New River</u>	15A NCAC	03J	.0208*	36:03 NCR
<u>Fishing Gear Restrictions</u>	15A NCAC	03J	.0402*	36:03 NCR
<u>Repacking of Foreign Crab Meat Prohibited</u>	15A NCAC	03L	.0210*	36:03 NCR
<u>American Lobster (Northern Lobster)</u>	15A NCAC	03L	.0301*	36:03 NCR
<u>Purse Gill Net Prohibited</u>	15A NCAC	03M	.0302	36:03 NCR
<u>Shad</u>	15A NCAC	03M	.0519	36:03 NCR

**TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10A NCAC 21A .0304 CONDUCTING DEPARTMENT APPEAL HEARINGS BY TELEPHONE OR ELECTRONIC MEANS**

For public assistance and social services de novo appeals, including appeals of cases involving disability filed pursuant to G.S. 108A-79(i):

- (1) The Department shall conduct the appeal hearing in accordance with the mode of hearing selected by the appellant at the time the appeal is filed.
- (2) The appellant shall select the mode of the hearing at the time the appeal is filed.
- (3) The county department of social services case worker shall notify the Department of the appeal by submitting the completed Request for State Appeal form with the following information:
  - (a) the date of appeal request;
  - (b) the appellant's name;
  - (c) the appellant's social security number and date of birth;
  - (d) the appellant's mailing address and telephone number;
  - (e) the date of application;
  - (f) the mode of hearing selected by the appellant;
  - (g) the appellant's email address, if the appellant requests a remote video hearing;
  - (h) selection of representative(s);
  - (i) the representative(s)' name and title;
  - (j) the representative(s)' mailing address and phone number;
  - (k) the representative(s)' email address;
  - (l) statement of reasonable accommodations required for the appellant to participate in the State hearing;
  - (m) indication of the program being appealed;
  - (n) identification of the issue being appealed at the State hearing; and
  - (o) indication of requested continuation of benefits, if applicable.
  - (p) The county department of social services case worker shall attach to the Request for State Appeal the following documents:
    - (i) a copy of the DSS notification letter that prompted the appeal;
    - (ii) local appeal hearing summary and decision, if applicable;

- (iii) a copy of the D4037 Medicaid Disability Determination Transmittal;
- (iv) a copy of the DMA-5135 and related medical records, if applicable;
- (v) a copy of relevant documents related to the appeal;
- (vi) a copy of the DSS-1473A Addendum for Program Integrity, if applicable; and
- (vii) a copy of the DSS-1473B Addendum & Medical Evidence if the appeal is an Expedited Medicaid Appeal.

- (4) Based on the mode of hearing the appellant selected at the time the appeal was filed, the hearing officer and the parties shall attend either:
  - (a) in person at the county department of social services with jurisdiction over the case; or
  - (b) remotely by telephone or other electronic means.
- (5) If the appellant does not select a mode of hearing at the time the Request for State Appeal form is filed, the hearing shall be conducted by telephone or other electronic means.
- (6) In the case of a disaster declaration by the President of the United States or the Governor, a national emergency declaration by the President of the United States, or a state of emergency declaration under G.S. 166A-19.3(19), the mode of hearing shall be by telephone or other electronic means.
- (7) The Department shall notify the appellant of the hearing by First Class U.S. Mail.
- (8) The county department of social services shall make available by electronic mail, U.S. Mail or physical pick up the case file materials the appellant is entitled to examine pursuant to G.S. 108A-79(i)(1).
- (9) The Department shall continue the appeal hearing as necessary to fulfill procedural rights of the appellant as defined by 42 CFR 431.242, which is incorporated by reference including subsequent amendments and editions, and available free of charge at <https://www.ecfr.gov>.

*History Note: Authority G.S. 108A-54; 108A-79; 108A-80(d); 42 CFR 431.205; 42 CFR 431.240; 42 CFR 431.242; Emergency Adoption Eff. May 4, 2020; Temporary Adoption Eff. June 26, 2020; Temporary Adoption Expired Eff. April 11, 2021; Eff. April 1, 2022.*

**TITLE 12 - DEPARTMENT OF JUSTICE**

**12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR**

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;
- (2) Select and schedule instructors who are certified by the Commission;
- (3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities;
- (4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course Management Guide and provide him or her access to the most current version of the Course Management Guide;
- (5) Ensure each instructor utilizes Commission approved lesson plans and instructional materials;
- (6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas;
- (7) Develop, adopt, reproduce, and distribute any supplemental rules and requirements determined by the school to be necessary or appropriate for:
  - (A) effective course delivery;
  - (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and
  - (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records;
- (8) If appropriate, recommend housing and dining facilities for trainees;
- (9) Administer the course delivery in accordance with Commission approved lesson plans and course management guides;
- (10) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated. The comprehensive final examination shall be administered by the Criminal Justice Education and Training Standards Commission; and
- (11) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission, utilizing forms required for submission, which are located on the Agency's website: [https://ncdoj.gov/law-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)

[enforcement-training/criminal-justice/forms-and-publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/).

(b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified Basic Law Enforcement Training Course, the School Director shall:

- (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy;
- (2) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:
  - (A) Whether instruction has begun in the course or whether course initiation may be postponed;
  - (B) The risk of harm to students that may be caused by continuation of the course;
  - (C) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
  - (D) The specific need for the waiver; and
  - (E) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency;

- (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
- (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for every six trainees while engaged in a practical performance exercise;
- (5) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in

- the topical area "Subject Control Arrest Techniques";
- (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
- (7) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the State comprehensive exam, and include the following attachments:
- (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and
- (B) a copy of any rules and requirements for the school. A copy of those rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
- (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;
- (9) Administer or designate a staff person to administer course specific tests during course delivery:
- (A) to determine and record the level of trainee comprehension and retention of instructional subject matter;
- (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
- (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and
- (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:
- (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;
- (B) a "Certification and Test Score Release" form;
- (C) the "Police Officer Physical Ability Test (POPAT) Post-Course" final form; and
- (D) the orientation class enrollment roster.
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:
- (1) Schedule course presentation pursuant to Rule .0209 of this Subchapter;
- (2) Schedule evaluators as follows:
- (A) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
- (B) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery

of the instructor training course and trainee evaluation;

- (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following attachments:
  - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
  - (B) the names and last four digits of the social security numbers of all instructors and evaluators; and
  - (C) a copy of any rules and requirements for the school; and
- (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report [Form F-10B(ITC)] containing the following:
  - (A) class enrollment roster;
  - (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
  - (C) scores recorded for each trainee on the 70 minute skill presentation; and
  - (D) designation of trainees who completed the course in its entirety and whom the School Director finds to be competent to instruct.

(d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall:

- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction as follows:
  - (A) provide to the instructor the Commission form(s) for motor skill examination on each trainee;
  - (B) require the instructor to complete the motor skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
  - (C) require each instructor to sign each individual form and submit the original to the School Director;
- (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation [Form F-10A (SMI)] that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the

administration of the State exam, and the number of trainees to be trained on each type of approved speed measurement instrument. The Director of the Standards Division shall review the request and notify the School Director within thirty business days if the request is approved or denied; and

- (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation [Form F-10B (SMI)]. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for administering the motor-skill examination to the respective trainee.

*History Note: Authority G.S. 17C-6;*

*Eff. January 1, 1981;*

*Amended Eff. November 1, 1981;*

*Readopted w/change Eff. July 1, 1982;*

*Amended Eff. January 1, 2015; June 1, 2013; April 1, 2009; November 1, 2007; January 1, 2006; May 1, 2004; August 1, 2000; January 1, 1996; November 1, 1993; December 1, 1987; January 1, 1985;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022; July 1, 2021; January 1, 2021; July 1, 2020.*

## **12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING**

(a) The Instructor Training course required for General Instructor certification shall consist of a minimum of 40 hours of classroom instruction, plus the time required to conduct practical exercises, student presentations, and post testing presented during a period of no more than 15 business days. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called on action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- |      |   |         |
|------|---|---------|
| (1)  | Orientation and Pre-Test  | 1 Hour  |
| (2)  | Instructional Systems Design (ISD)  | 5 Hours |
| (3)  | Law Enforcement Instructor Liabilities and Legal Responsibilities   | 2 Hours |
| (4)  | Criminal Justice Instructional Leadership   | 4 Hours |
| (5)  | Lesson Plan Preparation: Professional Resources   | 2 Hours |
| (6)  | Lesson Plan Development and Formatting  | 3 Hours |
| (7)  | Adult Learning  | 2 Hours |
| (8)  | Instructional Styles and Platform Skills  | 5 Hours |
| (9)  | Classroom Management  | 3 Hours |
| (10) | Active Learning: Demonstration and Practical Exercises  | 3 Hours |
| (11) | The Evaluation Process of Learning  | 4 Hours |
| (12) | Audio Visual Aids   | 5 Hours |
| (13) | Course Closing and Post-test  | 1 Hour  |
| (14) | Completion of tasks associated with practical exercises, student presentations, and post testing; the number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors. |         |

(d) The "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

*History Note:* Authority G.S. 17C-6;

*Eff.* January 1, 1981;

*Amended Eff.* July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; December 1, 2009; August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1, 1985;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.* May 25, 2019;

*Amended Eff.* April 1, 2022; July 1, 2021; January 1, 2021.

## **12 NCAC 09B .0210 RADAR INSTRUCTOR TRAINING COURSE**

(a) The radar instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice radar instructor. This course shall be for a period not to exceed six consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) The radar instructor training course required for radar instructor certification shall include the topic areas and minimum number of hours as outlined in the Radar Instructor Training Course. To qualify for radar instructor certification, an applicant shall meet the requirements as outlined in the Radar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for radar instructor training shall:

- (1) present the endorsement of a Commission-recognized school director or agency executive officer or his designee;
- (2) possess full criminal justice general instructor certification as required in 12 NCAC 09B .0302; and
- (3) possess a current and valid radar operator certification.

(d) The "Radar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar instructor training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-certified school that is certified to offer the "Radar Instructor Training Course" is The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6; Eff. November 1, 1981;*

*Readopted w/change Eff. July 1, 1982;*

*Amended Eff. January 1, 2006; April 1, 1999; November 1, 1998; August 1, 1995; July 1, 1989; February 1, 1987; August 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. April 1, 2022.*

**12 NCAC 09B .0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE**

(a) The time-distance instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a time-distance instructor. This course shall be for a period not to exceed eight consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each applicant for the time-distance speed measurement instrument instructor training course shall meet the requirements of 12 NCAC 09B .0210(c)(1) and (2) and 12 NCAC 09B .0309. The time-distance instructor training course required for time-distance instructor certification shall include the topic areas and minimum number of hours as outlined in the Time-Distance Instructor Training Course. To qualify for time-distance instructor certification, an applicant shall meet the requirements as outlined in the Time-Distance Instructor Training Course and meet the requirement of 12 NCAC 09B .0408 and .0409.

(c) The "Time-Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the criminal justice time-distance speed measurement instrument instructor training course for time-distance speed measurement instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive

Post Office Drawer 149

Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy

Post Office Box 99

Salemberg, North Carolina 28385

(d) Commission-certified school that is certified to offer the "Time Distance Instructor Training Course" is The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6; Eff. November 1, 1981;*

*Readopted w/change Eff. July 1, 1982;*

*Amended Eff. November 1, 2007; April 1, 1999; November 1, 1998; November 1, 1993; July 1, 1989; February 1, 1987; August 1, 1984;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022.*

**12 NCAC 09B .0212 CERTIFICATION TRAINING FOR RADAR OPERATORS**

(a) The radar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform the function of a law enforcement radar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the radar operator training course. Such a trainee shall not be certified as a radar operator until the basic law enforcement training course has been completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in the radar operator training courses on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or hold general law enforcement



certification. The radar operator training course required for radar operator certification shall include the topic areas and minimum number of hours as outlined in the Radar Operator Training Course. To qualify for radar operator certification, an applicant shall meet the minimum requirements as outlined in the Radar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar operator training course for radar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 1981;  
Readopted w/change Eff. July 1, 1982;  
Temporary Amendment Eff. February 24, 1984 for a period of 120 days to expire on June 22, 1984;  
Amended Eff. April 1, 1999; November 1, 1998; August 1, 1995;  
February 1, 1991; July 1, 1989; August 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Amended Eff. April 1, 2022.*

## **12 NCAC 09B .0213 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE OPERATORS**

(a) The radar/time-distance operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform the function of a radar/time-distance operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this

Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar and time-distance speed measurement instrument operator training course. Such a trainee shall not be certified as a radar and time-distance speed measurement instrument operator until the basic law enforcement training course has been completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in radar and time-distance speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/time-distance operator training course required for radar/time-distance operator certification shall include the topic areas and minimum number of hours as outlined in the Radar/Time-Distance Operator Training Course. To qualify for radar/time-distance operator certification, an applicant shall meet the minimum requirements as outlined in the Radar/Time-Distance Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the radar/time-distance operator training course for radar/time-distance instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 1981;  
Readopted w/change Eff. July 1, 1982;  
Amended Eff. April 1, 1999; November 1, 1998; August 1, 1995;  
February 1, 1991; July 1, 1989; August 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Amended Eff. April 1, 2022.*

## **12 NCAC 09B .0214 CERTIFICATION TRAINING FOR TIME-DISTANCE OPERATORS**

(a) The time-distance operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform the function of a time-distance operator. This course shall not exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a

specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the time-distance speed measurement operator training course. Such a trainee shall not be certified as a time-distance speed measurement operator until the basic law enforcement training course has been completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in time-distance speed measurement operator training courses on a space available basis at the discretion of the school director without having enrolled in or having completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The time-distance operator training course required for time-distance operator certification shall include the topic areas and minimum number of hours as outlined in the Time-Distance Operator Training Course. To qualify for time-distance operator certification, an applicant shall meet the minimum requirements as outlined in the Time-Distance Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the time-distance operator training course for time-distance operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. November 1, 1981;  
Readopted w/change Eff. July 1, 1982;*

*Amended Eff. April 1, 1999; November 1, 1998; August 1, 1995;  
February 1, 1991; July 1, 1989; August 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. May 25, 2019;  
Amended Eff. April 1, 2022.*

## **12 NCAC 09B .0226 SPECIALIZED FIREARMS INSTRUCTOR TRAINING**

(a) The instructor training course for Specialized Firearms Instructor Training Certification shall consist of a minimum of 50 hours of classroom and range instruction plus time required to complete the tasks associated with Range Operations presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Specialized Firearms Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice firearms instructor in a Basic Law Enforcement Training (BLET) Course or a law enforcement officer in-service firearms training program.

(c) Each applicant for specialized firearms instructor training shall:

- (1) have completed the criminal justice instructor training course;
- (2) present a written endorsement by either:
  - (A) a certified school director indicating the student may be utilized to instruct firearms in the Basic Law Enforcement Training Course; or
  - (B) a department head, certified school director, or in-service training coordinator, indicating the student may be utilized to instruct firearms in a law enforcement officer in-service firearms training program; and
- (3) Once within 365 days prior to enrollment each prospective student shall demonstrate proficiency during a qualification administered by the North Carolina Justice Academy. To successfully complete this qualification each prospective student shall achieve a minimum

score of 92 percent 2 out of 3 times on both the BLET Day and Night Courses of Fire while using a 'Sam Browne' type belt and security holster and agency-issued duty or ballistic-equivalent ammunition.

(d) Each Specialized Firearms Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- |      |   |         |
|------|---|---------|
| (1)  | Orientation/Pretest   | 2 Hours |
| (2)  | Range Operations  | 2 Hours |
| (3)  | Civil Liability   | 4 Hours |
| (4)  | Night Firing  | 2 Hours |
| (5)  | Combat Shooting Classroom and Range   | 8 Hours |
| (6)  | Mental Conditioning   | 1 Hours |
| (7)  | Shotgun Operation and Firing  | 4 Hours |
| (8)  | Service Handgun - Operation and Use   | 8 Hours |
| (9)  | Rifle - Operation and Maintenance   | 4 Hours |
| (10) | Service Handgun - Maintenance and Cleaning  | 2 Hours |
| (11) | Range Medical Emergencies   | 2 Hours |
| (12) | In-Service Firearms Requirements  | 2 Hours |
| (13) | BLET Lesson Plan Review   | 1 Hour  |
| (14) | Range Drills as defined in the Specialized Firearms Instructor Training Manual and the Specialized Firearms Instructor Training Course Management Guide | 8 Hours |
| (15) | Completion of tasks associated with Range Operations and Instructor Practicums hours determined by number of students and instructors:                  |         |
|      | (A) Conduct a BLET Day Course of Fire   |         |
|      | (B) Conduct a BLET Night Course of Fire   |         |
|      | (C) Conduct a Long Gun Course of Fire   |         |
|      | (D) Develop a Combat Course of Fire   |         |

(e) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be the curriculum for the Specialized Firearms Instructor Training course. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Firearms Instructor Training" course is the North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6; Eff. May 1, 1986;*

*Amended Eff. January 1, 2015; February 1, 2013; August 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; February 1, 1991; March 1, 1990; July 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022; January 1, 2021.*

## **12 NCAC 09B .0232 SPECIALIZED SUBJECT CONTROL ARREST TECHNIQUES INSTRUCTOR TRAINING**

(a) The instructor training course required for Specialized Subject Control Arrest Techniques Instructor Certification shall consist of a minimum of 29 hours of classroom instruction plus time required to complete the tasks associated with Subject Control Arrest Techniques Instructional Methods and Demonstration presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- |     |   |
|-----|---|
| (1) | Whether instruction has begun in the course or whether course initiation may be postponed;                                |
| (2) | The risk of harm to students that may be caused by continuation of the course;  |
| (3) | Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency; |
| (4) | The specific need for the waiver; and   |
| (5) | The degree of benefit to the public in allowing a break in instruction.   |

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Specialized Subject Control Arrest Techniques Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice Specialized Subject Control Arrest Techniques Instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Subject Control Arrest Techniques Instructor Training shall:

- |     |   |
|-----|---|
| (1) | have completed the Criminal Justice Instructor Training course;   |
| (2) | present a letter from a licensed physician stating the applicant's physical fitness to participate in the course;   |
| (3) | present a written endorsement by either   |
|     | (A) a certified School Director indicating the student is qualified to instruct subject control arrest techniques in Basic Law Enforcement Training Courses; or |
|     | (B) a Department Head, certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct subject                 |

control arrest techniques for the Law Enforcement Officers' Annual In-Service Training program; and

- (4) Within 365 days prior to enrollment in the Subject Control Arrest Techniques Instructor Training course the prospective student shall complete the following assessments administered by the North Carolina Justice Academy:

- (A) a qualification requiring the individual to demonstrate 100 percent proficiency on the Basic Law Enforcement Training Subject Control Arrest Techniques; and
- (B) achieve at least the 60<sup>th</sup> percentile on a physical fitness assessment.

- (d) Each Specialized Subject Control Arrest Techniques Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- |     |   |         |
|-----|---|---------|
| (1) | Orientation   | 1 Hour  |
| (2) | Response to Injury  | 4 Hours |
| (3) | Combat Conditioning   | 4 Hours |
| (4) | Safety Guidelines/Rules   | 2 Hours |
| (5) | Fundamentals of Professional Liability  | 4 Hours |
| (6) | Practical Skills Enhancement  | 4 Hours |
| (7) | Student Instructional Practicum   | 6 Hours |
| (8) | BLET Lesson Plan Review   | 4 Hours |
| (9) | Completion of tasks associated with Subject Control Arrest Techniques Instructional Methods and Demonstrations. The number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors. |         |

- (e) The "Specialized Subject Control Arrest Techniques Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for the Specialized Subject Control Arrest Techniques Instructor Training course. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

- (f) The Commission-certified school that is certified to offer the "Specialized Subject Control Arrest Techniques Instructor Training" course is the North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6; Eff. February 1, 1987; Amended Eff. February 1, 2016; January 1, 2015; February 1, 2013; December 1, 2009; August 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; March 1, 1990; July 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. April 1, 2022; January 1, 2021.*

## **12 NCAC 09B .0233 SPECIALIZED PHYSICAL FITNESS INSTRUCTOR TRAINING**

(a) The instructor training course required for Specialized Physical Fitness Instructor Certification shall consist of a minimum of 47 hours of classroom and field instruction, plus the tasks associated with Physical Fitness Assessments, Exercise Programs, and Instructional Methods, presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Specialized Physical Fitness Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice physical fitness instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

- (c) Each applicant for specialized physical fitness training shall:
- (1) qualify through one of the following three options:
    - (A) have completed the criminal justice general instructor training course;
    - (B) hold a current and valid North Carolina Teacher's Certificate, hold a baccalaureate degree in physical education, and be teaching in physical education topics; or
    - (C) be presently instructing physical education topics in a community college, college, or university and possess a baccalaureate degree in physical education;
  - (2) present a written endorsement by either:
    - (A) a certified School Director indicating the student may be utilized to instruct physical fitness in Basic Law Enforcement Training Courses; or

- (B) a certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct physical fitness for the Law Enforcement Officers' In-Service Training Program;
- (3) present a letter from a physician stating fitness to participate in the course; and
- (4) Within 365 days prior to enrollment complete a qualification administered by the North Carolina Justice Academy requiring the individual to:
  - (A) complete Scenario #1 of the Police Officer Physical Abilities Test (POPAT) in no more than six minutes;
  - (B) complete Scenario #2 of the POPAT in no more than three minutes; and
  - (C) complete a physical fitness assessment achieve at a minimum percentile score of 60.

(d) Each Specialized Physical Fitness Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- |      |   |          |
|------|---|----------|
| (1)  | Orientation   | 1 Hour   |
| (2)  | Physical Fitness Sessions   | 6 Hours  |
| (3)  | Physical Fitness Assessments, Exercise Programs, and Instructional Methods  | 14 Hours |
| (4)  | Injury Care and Prevention  | 4 Hours  |
| (5)  | Nutrition   | 7 Hours  |
| (6)  | Civil Liability   | 3 Hours  |
| (7)  | CVD Risk Factors  | 3 Hours  |
| (8)  | Developing In-Service Wellness Programs and Validating Fitness Standards  | 4 Hours  |
| (9)  | Lesson Plan Review  | 2 Hours  |
| (10) | Exercise Leadership   | 3 Hours  |
| (11) | Completion of tasks associated with Physical Fitness Assessments, Exercise Programs, and Instructional Methods. The number of hours required to complete this portion of the curriculum shall be determined by number of students, number of instructors, and available facilities. |          |

(e) The "Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for specialized physical fitness instructor training courses. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:  
North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Physical Fitness Instructor Training" course is the North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. July 1, 1989;*

*Amended Eff. February 1, 2016; January 1, 2015; February 1, 2013; December 1, 2009; August 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998; March 1, 1990; August 1, 1985.*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Amended Eff. April 1, 2022; January 1, 2021.*

## **12 NCAC 09B .0237 LIDAR INSTRUCTOR TRAINING COURSE**

(a) The Lidar Instructor Training Course shall be designed to provide the trainee with the skills and knowledge to perform the function of a lidar instructor. This course shall be for a period not to exceed six consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) The Lidar Instructor Training Course required for lidar instructor certification shall include the topic areas and number of hours as outlined in the Lidar Instructor Training Course. To qualify for lidar instructor certification, an applicant shall meet the requirements as outlined in The Lidar Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for lidar instructor training shall:

- (1) present the endorsement of a Commission-recognized school director or agency executive officer or his designee;
- (2) possess full criminal justice General Instructor Certification as required in 12 NCAC 09B .0302; and
- (3) possess a current and valid lidar operator certification.

(d) The "Lidar Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the lidar instructor training course for lidar

instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(e) Commission-certified school that is certified to offer the LIDAR Instructor Training Course is The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;  
Eff. May 1, 2004;*

*Amended Eff. November 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022.*

## **12 NCAC 09B .0238 CERTIFICATION TRAINING FOR LIDAR OPERATORS**

(a) The Lidar Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform the function of a law enforcement lidar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the Lidar Operator Training Course. Such a trainee shall not be certified as a lidar operator until the Basic Law Enforcement Training Course has been completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in the lidar operator training courses on a space available basis at the discretion of the school director without having enrolled in or having completed the Basic Law

Enforcement Training Course and without being currently certified in a probationary status or holding general law enforcement certification. The Lidar Operator Training Course required for lidar operator certification shall include the topic areas and number of hours as outlined in the Lidar Operator Training Course. To qualify for lidar operator certification, an applicant shall meet the requirements as outlined in the Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the Lidar Operator Training Course for lidar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;  
Eff. May 1, 2004;*

*Amended Eff. November 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022.*

## **12 NCAC 09B .0242 CERTIFICATION TRAINING FOR RADAR/LIDAR OPERATORS**

(a) The radar/lidar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform the function of a radar and lidar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar/lidar speed measurement instrument operator training course. Such a trainee shall not be certified as a radar and lidar speed measurement instrument operator until the basic law enforcement training course has been completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in a radar/lidar speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/lidar operator training course required for radar and lidar operator certification shall include the topic areas and number of hours as outlined in the Radar/Lidar Operator Training Course. To qualify for radar and lidar operator certification, an applicant shall meet the requirements as outlined in the Radar/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/lidar operator training course for radar and lidar instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022.*

#### **12 NCAC 09B .0244 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE/LIDAR OPERATORS**

(a) The radar/time-distance/lidar operator training course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to perform the function of a radar, time-distance, and lidar operator. This course shall be for a period not to exceed four consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;

- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the radar/time-distance/lidar speed measurement instrument operator training course. Such a trainee shall not be certified as a radar, time-distance, and lidar speed measurement instrument operator until the basic law enforcement training course has been completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in radar, time-distance, and lidar speed measurement instrument operator training courses on a space available basis at the discretion of the school director without having enrolled in or having completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The radar/time-distance/lidar operator training course required for radar, time-distance, and lidar operator certification shall include the topic areas and number of hours as outlined in The Radar/Time-Distance/Lidar Operator Training Course. To qualify for radar, time-distance, and lidar operator certification, an applicant shall meet the requirements as outlined in The Radar/Time-Distance/Lidar Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "Radar/Time-Distance/Lidar Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar/time-distance/lidar operator training course for radar, time-distance, and lidar instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;*

*Eff. November 1, 2007;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022.*

**12 NCAC 09B .0404 TRAINEE ATTENDANCE**

(a) Each trainee enrolled in a certified Basic Law Enforcement Training Course shall attend all class sessions. The school director shall monitor the trainee's attendance at criminal justice training courses in which the trainee is enrolled.

(b) The school director may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed five percent of the total class hours for the course offering. A trainee shall not be eligible for administration of the State comprehensive examination and shall be dismissed from the course if the cumulative total of class absences exceeds five percent regardless of the prior completion of make-up work.

(c) If the school director grants an excused absence from a class session, he or she shall schedule make-up work and ensure the completion of such work during the current course presentation. The school director shall schedule instructors and reimburse those instructors for the purpose of completion of the make-up work. Absences that occur during the last 40 hours of the training course may be made up in a subsequent delivery; however, the school director shall notify the Standards Division prior to scheduling the make-up work.

(d) If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in instruction for an individual trainee in a specific course delivery, not to exceed 90 hours, when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to this Section shall be posted on the CJETS website at <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(e) the School Director shall provide the following information to the Director of the Criminal Justice Standards Division for consideration of a waiver under Paragraph (d) of this Rule:

- (1) a memorandum justifying the absence waiver;
- (2) specific documentation related to the trainee's request; and
- (3) a training completion plan pursuant to Paragraph (c) of this Rule.

(f) A school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is tardy to or departs early from class meetings or field exercises.

(g) Where a trainee is enrolled in a program as required in 12 NCAC 09B .0212, .0213, .0214, .0215, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, or .0240, and the scheduled course hours exceed the requirements of the Commission, the trainee, upon the authorization of the school director, may be

deemed to have satisfactorily completed the required number of hours for attendance provided the trainee's attendance is not less than 100 percent of the instructional hours as required by the Commission.

(h) A trainee enrolled in a presentation of the "Criminal Justice Instructor Training Course" under Rule .0209 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion.

(i) A trainee, enrolled in a presentation of the "Specialized Firearms Instructor Training" course under Rule .0226 of this Subchapter, the "Specialized Driver Instructor Training" course under Rule .0227 of this Subchapter, the "Specialized Subject Control Arrest Techniques Instructor Training" course under Rule .0232 of this Subchapter, or the "Specialized Physical Fitness Instructor Training" course under Rule .0233 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism. The Director of the Criminal Justice Standards Division may grant a waiver for completion of course requirements in a course delivery scheduled within 12 months, for just cause based upon the circumstances that created the need for the absence. For the purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the student from completing the entire course in one continuous course delivery.

(j) A trainee, enrolled in a presentation of the "RADAR Instructor Training Course" under Rule .0210 of this Subchapter, the "Time-Distance Instructor Training Course" under Rule .0211 of this Subchapter, or the "LIDAR Instructor Training Course" under Rule .0237 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism.

*History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 1981;*

*Amended Eff. November 1, 1981;*

*Readopted Eff. July 1, 1982;*

*Amended Eff. February 1, 2006; May 1, 2004; August 1, 2000; April 1, 1999; November 1, 1993; July 1, 1989; February 1, 1987; June 1, 1986;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. April 1, 2022; August 1, 2021.*

**12 NCAC 09B .0417 SPECIALIZED EXPLOSIVES AND HAZARDOUS MATERIALS INSTRUCTOR TRAINING**

(a) The instructor training course required for Specialized Explosives and Hazardous Materials Instructor Certification shall consist of a minimum of 59 hours of classroom instruction plus time required to complete Instructor Practicums presented during a continuous period of not more than two weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director



determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Specialized Explosives and Hazardous Materials Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice explosives and hazardous materials instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Explosives and Hazardous Materials Instructor Training shall:

- (1) have completed either:
  - (A) the criminal justice instructor training course; or
  - (B) the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with application in education, military training, and private enterprise;
- (2) present a written endorsement by either:
  - (A) a certified school director indicating the student will be utilized to instruct explosives and hazardous materials in Basic Law Enforcement Training Courses; or
  - (B) a department head, certified school director, or in-service training coordinator, indicating the student will be utilized to instruct explosives and hazardous materials training in the Law Enforcement Officer's Annual In-Service Training Program; and
- (3) present a completed OSHA Respirator Medical Evaluation Questionnaire, accompanied by a statement from a licensed medical professional stating the applicant is physically fit to participate in the course.

(d) Each Specialized Explosives and Hazardous Materials Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation 2 Hours
- (2) Introduction to Hazardous Materials 1 Hour
- (3) Hazardous Materials Identification 2.5 Hours

- (4) Awareness Level Actions at Hazardous Materials Incidents 1.5 Hours
- (5) Chemical Properties and Hazardous Materials Behavior 3 Hours
- (6) Incident Management 3 Hours
- (7) Strategic Goals and Tactical Objectives 3.5 Hours
- (8) Terrorist and Other Criminal Activity 5 Hours
- (9) Personal Protective Equipment 5 Hours
- (10) Decontamination 5 Hours
- (11) Product Control 4 Hours
- (12) Air Monitoring and Sampling 1.5 Hours
- (13) Victim Rescue and Recovery 4 Hours
- (14) Evidence Preservation and Sampling 3 Hours
- (15) Illicit Laboratories 2 Hours
- (16) Introduction to Explosive Devices 1 Hour
- (17) Improvised Explosive Device Anatomy 2 Hours
- (18) Packaged Improvised Explosive Devices 1 Hour
- (19) Suicide/Homicide Improvised Explosive Devices 1 Hour
- (20) Vehicle Borne Improvised Explosive Devices 1 Hour
- (21) Radio Controlled Improvised Explosive Devices with Live Demonstration 5 Hours
- (22) Improvised Explosive Device Threat Response 1 Hour
- (23) Explosives and Hazardous Materials Emergencies and BLET Lesson Plan Review 1 Hour
- (24) Completion of tasks associated with Instructor Practicums. The number of required hours to complete this portion of the curriculum shall be based on the number of students and instructors.

(e) The basic curriculum for delivery of the Specialized Explosives and Hazardous Materials Instructor Training course shall be the Specialized Explosives and Hazardous Materials Instructor Training Manual," as published by the North Carolina Justice Academy. Copies of these publications may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Raleigh, North Carolina 27610

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) The North Carolina Justice Academy is certified to offer the Specialized Explosives and Hazardous Materials Instructor Training course.

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. June 1, 2013;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. April 1, 2022; January 1, 2021.*

**12 NCAC 09G .0414 INSTRUCTOR TRAINING**

(a) The Instructor Training course required for General Instructor certification shall consist of at least the minimum number of hours of instruction as defined in 12 NCAC 09B .0209 to be completed within 15 business days. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) The "Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy  
Post Office Drawer 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002; Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. April 1, 2022; July 1, 2021; January 1, 2021.*

**12 NCAC 09G .0415 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING – FIREARMS**

(a) The instructor training course requirement for Corrections Specialized Instructor Training – Firearms certification shall consist of at least 80 hours of instruction presented during a period of not more than two consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Corrections Specialized Instructor Training – Firearms course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections firearms instructor in the "Basic Training – Correctional Officer" course, "Basic Training - Probation/Parole Officer" course, and in-service training courses for correctional officers and probation/parole officers.

(c) Each Corrections Specialized Firearms Instructor Training course shall include the following topical areas:

- (1) Course Overview;
- (2) Legal Considerations for Firearm Instructors;
- (3) Department of Public Safety, Division of Adult Correction Firearms Training Courses;
- (4) Firearms Safety;
- (5) Range Operations;
- (6) Medical Emergencies on the Range;
- (7) Handgun – Operation, Use and Maintenance:
  - (A) Handgun Training – Classroom and Range;
  - (B) Handgun Low/Limited Light Fire; and
  - (C) Handgun Care and Maintenance;
- (8) Advanced Handgun Training – Classroom and Range;
- (9) Shotgun Operation, Use and Maintenance:
  - (A) Shotgun Training – Classroom and Range;
  - (B) Shotgun Low/Limited Light Fire – Range; and
  - (C) Shotgun Care and Maintenance;
- (10) Special Techniques, Training Aids, and Methods;
- (11) Situational Use of Firearms:
  - (A) The Shooting Decision;

- (B) Situational Use of Firearms;
- (C) Situational Exercises – Day; and
- (D) Situational Exercises – Low/Limited Light; and
- (12) Administrative Matters, Testing, and Evaluation.

(d) The Commission certified school that is certified to offer the "Corrections Specialized Instructor Training - Firearms" course is the Office of Staff Development and Training of the North Carolina Department of Public Safety.

*History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002; Amended Eff. May 1, 2014; April 1, 2008; February 1, 2006; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. April 1, 2022.*

**12 NCAC 09G .0416 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - CONTROLS, RESTRAINTS, AND DEFENSIVE TECHNIQUES**

(a) The instructor training course requirement for corrections specialized controls, restraints, and defensive techniques (CRDT) instructor certification shall consist of at least 80 hours of instruction presented during a period of not more than two consecutive weeks. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) Whether instruction has begun in the course or whether course initiation may be postponed;
- (2) The risk of harm to students that may be caused by continuation of the course;
- (3) Whether those enrolled in the course have been or will likely be called to action to help address the State of Emergency;
- (4) The specific need for the waiver; and
- (5) The degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections controls, restraints, and defensive techniques instructor in the "Basic Training - Correctional Officer" course, "Basic Training - Probation/Parole Officer" course, and in-service training courses for correctional officers and probation/parole officers.

(c) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall include the following topical areas:

- (1) Introduction to Controls, Restraints, and Defensive Techniques;
- (2) Physical Fitness/Warm-up and Stretching;
- (3) Response to Injury;
- (4) Basic Controls and Techniques;
- (5) Advanced Controls and Techniques;
- (6) Restraint Applications; and
- (7) CRDT Program Student Evaluations and Testing.

(d) The Commission-certified school that is certified to offer the "Corrections Specialized Instructor Training/Controls, Restraints, and Defensive Techniques" course is the Office of Staff Development and Training of the North Carolina Department of Public Safety.

*History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002; Amended Eff. May 1, 2014; November 1, 2005; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. April 1, 2022.*

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**12 NCAC 10B .0405 REPORT OF SEPARATION**

(a) An agency separating a person from employment or appointment as a justice officer shall, not later than 10 days after separation, forward to the Division a completed Report of Separation (Form F-5 or Form F-5T).

(b) The Report of Separation (Form F-5 or F-5T) shall include the separating agency, the justice officer's name and address, the date of separation from the agency, and the signature of the agency head or authorized agency representative. If there are any allegations of criminal behavior, untruthfulness or other violations of Commission rules, the separating agency shall also document that information on the Report of Separation form.

(c) Although not presently required by these Rules, it is recommended by the Commission that the employing agency cancel the oath of office of a justice officer who has separated.

(d) The employing agency shall notify the justice officer of the effective date of separation as reported to the Division, and provide documentation of such notification at the time Report of Separation (Form F-5 or Form F-5T) is submitted to the Division.

*History Note: Authority G.S. 17E-4; Eff. January 1, 1989; Amended Eff. January 1, 2005; January 1, 1996; January 1, 1992; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018; Amended Eff. April 1, 2022.*

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**TITLE 13 - DEPARTMENT OF LABOR**

**13 NCAC 13 .0101 DEFINITIONS**

The following definitions shall apply throughout the rules in this Chapter and shall be construed as controlling in case of any conflict with the definitions contained in ANSI/NB-23 National

Board Inspection Code Parts 2, 3, and 4, The American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, or The North Carolina State Building Code:

- (1) "Accepted Design and Construction Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME Code), or a comparable code with standards that the Chief Inspector determines to be equivalent to the ASME Code.
- (2) "Appurtenance" means any control, fitting, appliance, or device attached to or working in conjunction with the boiler proper or pressure vessel.
- (3) "ASME Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.
- (4) "Audit" means activities, other than certificate inspections, conducted by the Chief Inspector or his designee. Audits include the following:
  - (a) reviews for ASME and National Board certificate issuance and renewal;
  - (b) audits conducted of an authorized inspector at the location of a manufacturer or repair organization as may be required by the ASME Code, National Board Inspection Code, or National Board Rules for Commissioned Inspectors; and
  - (c) audits pursuant to evaluation for the issuance of North Carolina Specials.
- (5) "Automatically fired boiler" means a boiler that cycles in response to a control system and that does not require a constant attendant for the purpose of introducing fuel into the combustion chamber or to control electrical input. Electricity shall be considered a fuel for electrically fired boilers.
- (6) "Authorized Inspection Agency" means an organization employing commissioned inspectors, including the following:
  - (a) the Bureau, as defined in Item (11) of this Rule.
  - (b) an inspection agency of an insurance company licensed to write boiler and pressure vessel insurance; or
  - (c) an owner-user inspection organization that is accredited by the National Board.
- (7) "Authorized inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an endorsement on his or her National Board Commission appropriate for the work to be performed, and inspects as the third party inspector in ASME Code manufacturing facilities.
- (8) "Boiler," as defined in G.S. 95-69.9(b), includes the following types of boilers:

- (a) "Exhibition boiler" means a historical or antique boiler that generates steam or hot water for the purposes of entertaining or educating the public or is used for demonstrations, tourist transportation, or exhibitions. This term includes boilers used in steam tractors, threshers, steam powered sawmills, and similar uses;
- (b) "High pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig or water is heated to a temperature greater than 250°F and a pressure greater than 160 psig for use external to itself. High pressure boilers include the following:
  - (i) Electric boilers;
  - (ii) Miniature boilers;
  - (iii) High temperature water boilers; and
  - (iv) High temperature liquid boilers (other than water);
- (c) "Low pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of not more than 15 psig or water is heated to a temperature not greater than 250°F and a pressure not greater than 160 psig, including the following:
  - (i) "Hot water heating boiler" means a low pressure boiler that supplies heated water that is returned to the boiler from a piping system and is used normally for building heat applications (hydronic boiler);
  - (ii) "Hot water supply boiler" means a low pressure boiler that furnishes hot water to be used externally to itself; and
  - (iii) "Steam heating boiler" means a low pressure boiler that generates steam to be used normally for building heat applications;
- (d) "Model hobby boiler" means a boiler that generates steam, whether stationary or mobile, and is used for the purpose of entertainment or exhibiting steam technology, where the boiler does not exceed:
  - (i) 20 square feet of heating surface;
  - (ii) a shell diameter of 16 inches;
  - (iii) a volume of 5 cubic feet; and
  - (iv) a pressure of 150 psig;

- (e) "Water heater" means a closed vessel in which water is heated by the combustion of fuel, by electricity, or by any other source, and withdrawn for potable use external to the system at pressures not exceeding 160 psig and temperatures not exceeding 210°F.
- (9) "Boiler blowoff" means the system associated with the rapid draining of boiler water to remove concentrated solids that have accumulated as a result of steam generation. This term also applies to the blowoff for other boiler appurtenances, such as the low-water fuel cutoff.
- (10) "Boiler proper" or "pressure vessel" means the internal mechanism, shell, and heads of a boiler or pressure vessel terminating at:
  - (a) the first circumferential joint for welded end connections;
  - (b) the face of the first flange in bolted flange connections; or
  - (c) the first threaded joint in threaded connections.
- (11) "Bureau" means the Boiler Safety Bureau of the North Carolina Department of Labor.
- (12) "Certificate inspection" means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding, or revoking the inspection certificate. The term "certificate inspection" also applies to the external inspection conducted in accordance with this Chapter whether or not a certificate is intended to be issued as a result of the inspection.
- (13) "Condemned boiler or pressure vessel" means a boiler or pressure vessel:
  - (a) that has been found not to comply with G.S. Chapter 95, Article 7A, or this Chapter;
  - (b) that constitutes a menace to public safety; and
  - (c) that cannot be repaired or altered so as to comply with G.S. Chapter 95, Article 7A, and this Chapter.
- (14) "Coil type watertube boiler" means a boiler having no steam space, such as a steam drum, whereby the heat transfer portion of the water-containing space consists only of a coil of pipe or tubing.
- (15) "Commissioned inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an endorsement on his or her National Board Commission appropriate for the work to be performed, and who is charged with conducting in-service inspections of pressure equipment and inspecting repairs or alterations to that equipment.
- (16) "Defect" means any deterioration to the pressure equipment affecting the integrity of the pressure boundary or its supports. Defects may be cracks, corrosion, erosion, bags, bulges, blisters, leaks, broken parts integral to the pressure boundary such as stays, or other flaws identified by NDE or visual inspection.
- (17) "Deficiency" means any violation of the Uniform Boiler and Pressure Vessel Act, rules of this Chapter, or identified defects.
- (18) "Design criteria" means design and construction code requirements relating to the mode of design and construction of a boiler or pressure vessel.
- (19) "Equipment" means any boiler or pressure vessel subject to inspection by the Bureau.
- (20) "External inspection" means an inspection of the external surfaces and appurtenances of a boiler or pressure vessel. An external inspection may entail "shutting down" a boiler or pressure vessel while it is in operation, including inspection of internal surfaces, if the inspector determines this action is warranted.
- (21) "Hydropneumatic storage tank" means a pressure vessel used for storage of water at ambient temperature not to exceed 120°F and where a cushion of air is contained within the vessel.
- (22) "Imminent danger" means any condition or practice in any location that a boiler or pressure vessel is being operated such that a danger exists that could be expected to cause death or serious physical harm if the condition is not abated.
- (23) "Insurance inspector" means the special inspector employed by an insurance company, and holding a valid North Carolina Commission and National Board Commission.
- (24) "Internal inspection" means as complete an examination as can be made of the internal and external surfaces and appurtenances of a boiler or pressure vessel while it is shut down.
- (25) "Maximum allowable working pressure" or "MAWP" means the maximum gauge pressure as determined by employing the stress values, design rules, and dimensions designated by the accepted design and construction code or as determined by the Chief Inspector in accordance with this Chapter.
- (26) "Menace to public safety" means a boiler or pressure vessel that cannot be operated without a risk of injury to persons and property.
- (27) "Miniature boiler" means a boiler that does not exceed any of the following:
  - (a) 16 inch inside shell diameter;
  - (b) 20 square feet of heating surface (does not apply to electrically fired boilers);
  - (c) 5 cubic feet volume; and

- (d) 100 psig maximum allowable working pressure.
- (28) "National Board Commission" means the commission issued by the National Board to those individuals who have passed the National Board commissioning examination and have fulfilled the requirements of the National Board Rules for Commissioned Inspectors.
- (29) "National Board Inspection Code" or "NBIC" means the ANSI/NB-23 standard published by the National Board, as incorporated by reference under Rule .0103 of this Chapter.
- (30) "Nondestructive examination" or "NDE" means examination methods used to verify the integrity of materials and welds in a component without damaging its structure or altering its mechanical properties. NDE may involve surface, subsurface, and volumetric examination. Visual inspection, x-rays, and ultrasound are examples of NDE.
- (31) "Nonstandard boiler or pressure vessels" means:
  - (a) high pressure boilers contracted for or installed before December 7, 1935;
  - (b) heating boilers contracted for or installed before January 1, 1951;
  - (c) pressure vessels contracted for or installed before January 1, 1976;
  - (d) hydropneumatic storage tanks contracted for or installed before January 1, 1986; and
  - (e) boilers or pressure vessels to which the ASME Code is not intended to apply, other than those boilers and pressure vessels to which the term North Carolina Special applies.
- (32) "Normal working hours" means between the hours of 6:00 AM and 6:00 PM, Monday through Friday, except for State recognized holidays established in 25 NCAC 01E .0901.
- (33) "North Carolina Commission" means the commission issued by the Commissioner to those individuals who have passed the examination administered by the Chief Inspector relating to the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter, and who also hold a National Board Commission, authorizing them to conduct inspections in this State.
- (34) "North Carolina Special" means a boiler or pressure vessel that is not constructed in compliance with the Accepted Design and Construction Code as defined in Item (1) of this Rule and for which the owner or operator shall apply for a special inspection certificate with the Chief Inspector.
- (35) "NPS" means nominal pipe size.
- (36) "Nuclear component" means the items in a nuclear power plant such as pressure vessels, piping systems, pumps, valves, and component supports.
- (37) "Nuclear system" means a system comprised of nuclear components that serve the purpose of producing and controlling an output of thermal energy from nuclear fuel and includes those associated systems essential to the function and overall safety of the power system.
- (38) "Operating pressure" means the pressure at which a boiler or pressure vessel operates. It shall not exceed the MAWP except as shown in Section I of the ASME Code for forced-flow steam generators.
- (39) "Owner or user" means any person or legal entity responsible for the operation of any boiler or pressure vessel installed in this State. This term also applies to a contractor, installer, or agent of the owner or user.
- (40) "Owner-user inspector" means an individual who holds a valid North Carolina Commission and National Board Commission and is employed by a company operating pressure vessels for its own use and not for resale and maintaining an inspection program that meets the requirements of the National Board for periodic inspection of pressure vessels owned or used by that company.
- (41) "Pressure piping" means piping, including welded piping, external to high pressure boilers from the boiler proper to the required valve(s).
- (42) "Pressure relief devices" mean the devices on boilers and pressure vessels set to open and relieve the pressure in the event of an over-pressurization event, and include the following:
  - (a) "Non-reclosing pressure relief device" means a pressure relief device designed to remain open after operation; and
  - (b) "Pressure relief valve" means a pressure relief device that is designed to reclose and prevent the further flow of fluid after normal conditions have been restored. These devices include:
    - (i) "Relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve that opens further with the increase in pressure over the opening pressure;
    - (ii) "Safety relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action or by opening in proportion to the increase in pressure over the opening pressure; and

- (iii) "Safety valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action.
- (43) "PSIG" means pounds per square inch gauge.
- (44) "Reinspection or Follow-Up Inspection" means an examination necessary to verify that any repair or corrective action required as a result of a certificate inspection is completed.
- (45) "Service vehicle" means a vehicle mounted with an air storage tank that services vehicles and equipment in the field away from the owner's shop.
- (46) "Shop inspection" means an inspection conducted by an Authorized Inspector or a Commissioned Inspector pursuant to an inspection service agreement whereby the fabrication process or the repair or alteration of a boiler or pressure vessel is observed to ensure compliance with the ASME Code and the NBIC.
- (47) "Special inspection" means any inspection conducted by a Deputy Inspector other than a regularly scheduled inspection, including the performance of an inspection by a Deputy Inspector that requires that the inspector make a special trip to meet the needs of the individual or organization requesting the inspection, conducting certificate inspections during hours other than normal working hours, and inspection of field repairs and alterations. A special inspection may be considered any inspection or activity not otherwise described in these Rules.
- (48) "Special inspector" means a National Board commissioned inspector employed by an insurance company authorized to write boiler and pressure vessel insurance in the State of North Carolina.
- (49) "Violation" means the failure to comply with the requirements of the Uniform Boiler and Pressure Vessel Act or this Chapter.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Temporary Amendment [(16)]; Eff. March 10, 1982, for a Period of 120 Days to Expire on July 8, 1982; Amended Eff. March 1, 2017; March 1, 2015; July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; January 1, 1987; January 1, 1986; June 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. April 1, 2022.*

**13 NCAC 13 .0103 INCORPORATED - STANDARDS**

(a) The following standards are incorporated by reference, including subsequent amendments and editions of the standards:

- (1) The ANSI/NB-23 National Board Inspection Code (NBIC) Parts 2, 3, and 4. Copies of the ANSI/NB-23 National Board Inspection Code Parts 2, 3, and 4 are available for inspection at the offices of the Bureau and may also be obtained from the National Board of Boiler and Pressure Vessel Inspectors, via U.S. Mail at 1055 Crupper Avenue, Columbus, Ohio 43229, via telephone at (614) 888-8320, or via the internet at [www.nationalboard.org](http://www.nationalboard.org). The costs, which does not include shipping and handling, are as follows:
  - (A) Complete Set (printed or PDF), Parts 1-4: \$325.00;
  - (B) Individual (printed), Part 2: \$150.00;
  - (C) Individual (printed), Part 3: \$150.00;
  - (D) Individual (printed), Part 4: \$115.00; or
  - (E) Bundled Set (printed and PDF), Parts 1-4: \$435.00.
- (2) The American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Copies of the complete set of the ASME Code are available for inspection at the offices of the Bureau and may also be obtained from the American Society of Mechanical Engineers, via U.S. Mail at 150 Clove Road, 6<sup>th</sup> Floor, Little Falls, New Jersey 07424-2139, via telephone at (800) 843-2763, via facsimile at (973) 882-1717 or (800) 843-2763, via email at [customercare@asme.org](mailto:customercare@asme.org), or via the internet at [www.asme.org](http://www.asme.org). The cost is seventeen thousand nine hundred and forty-five dollars (\$17,945) for the complete 2021 edition of the code.
- (3) The North Carolina State Building Code. Copies of the North Carolina State Building Code are available for inspection at the offices of the Bureau and may also be obtained from the North Carolina Department of Insurance, Office of the State Fire Marshal, Engineering & Codes, 325 North Salisbury Street, Raleigh, North Carolina, 27603. The cost of a North Carolina State Building Code, 2018 edition, is one hundred twenty nine dollars (\$129.00) for walk-in clients; prices differ for digital versions, when ordering online, and for members of the International Code Council. The codes may be ordered via the internet at <https://www.ncosfm.gov/codes>.
- (b) The rules of this Chapter shall control when any conflict between these Rules and the standards cited in Subparagraphs (a)(1) and (2) of this Rule exists. In the event that a conflict between these Rules and the North Carolina State Building Code exists, the more stringent standard prevails and shall be adhered to.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. January 1, 1995; Amended Eff. July 1, 2011; July 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;  
Amended Eff. April 1, 2022.*

**13 NCAC 13 .0201 NAME: ADDRESS**

(a) The Boiler Safety Bureau, which administers the provisions of Article 7A of G.S. Chapter 95, is located at the following physical address:

North Carolina Department of Labor  
Boiler Safety Bureau  
Old Revenue Building  
111 Hillsborough Street  
Raleigh, North Carolina 27603.

(b) All correspondence shall be addressed to the following mailing address:

North Carolina Department of Labor  
Boiler Safety Bureau  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101  
Telephone (919) 707-7918  
Fax (919) 707-7960.

*History Note: Authority G.S. 95-69.12;  
Eff. May 29, 1981;  
Amended Eff. July 1, 2006; January 1, 1995; June 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;  
Amended Eff. April 1, 2022; January 1, 2020.*

**13 NCAC 13 .0202 INSPECTOR QUALIFICATION**

(a) Deputy Inspectors conducting certificate inspections shall be in possession of a valid North Carolina Commission. Special Inspectors and Owner-User Inspectors shall be in possession of a National Board Commission and a North Carolina Commission.

(b) A North Carolina Commission shall be issued to an inspector who:

- (1) has attained a passing grade of 70 percent or higher on an examination administered by the Chief Inspector relating to the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter; and
- (2) meets all other criteria as set forth in the Uniform Boiler and Pressure Vessel Act and this Chapter.

(c) If a North Carolina Commissioned inspector does not conduct at least one certificate inspection in North Carolina per calendar year, the inspector must retake and pass this examination before becoming commissioned again in this State. A certificate inspection shall be an inspection as described in Rule .0211 of this Chapter.

(d) National Board examinations are administered by the National Board of Boiler and Pressure Vessel Inspectors. Information on the examinations may be found on the National Board web site at [www.nationalboard.org](http://www.nationalboard.org) or by telephone at (614) 888-8320.

(e) The National Board Inservice Inspector examination covers the installation, operation, and inspection of boilers and pressure vessels and their appurtenances. A grade of 70 percent or higher must be attained to achieve a passing grade on the examination.

*History Note: Authority G.S. 95-69.11; 95-69.15;  
Eff. May 29, 1981;  
Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006;  
January 1, 1995; September 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;  
Amended Eff. April 1, 2022.*

**13 NCAC 13 .0203 NORTH CAROLINA COMMISSION**

(a) When requested by the employer and upon presentation of a completed Application for Commission as an Inspector of Boilers and Pressure Vessels, a North Carolina Commission, bearing the signature of the Commissioner or Chief Inspector, shall be issued by the Chief Inspector to persons holding a valid National Board Commission who have taken and passed the examination specified in 13 NCAC 13 .0202(b).

(b) Applications for a North Carolina Commission shall be processed upon proof of a National Board Commission and payment of a thirty-five dollar (\$35.00) fee to the Department of Labor.

(c) North Carolina Commissions shall be valid on an annual basis through December 31, at which time the inspector's employer shall submit a renewal request letter and a thirty-five dollar (\$35.00) fee to the Department of Labor.

(d) The North Carolina Commission shall be returned by the employing company with notification of termination date to the Bureau within 30 days of termination of employment.

(e) A North Carolina Commission may be suspended or revoked by the Commissioner in accordance with G.S. 95-69.11(20). Failure to conduct inspections in accordance with this Chapter shall constitute incompetence. Falsification of any statement in an application or inspection report, including a failure to inspect, shall constitute dishonesty. Suspension or revocation of a North Carolina Commission shall be based on evidence of incompetence or dishonesty.

(f) The Commissioner shall give notice of the commencement of proceedings for suspension or revocation of a commission pursuant to G.S. 150B-23. A North Carolina Commission may be suspended prior to the hearing if the Chief Inspector determines that, as a result of an inspector incompetence or dishonesty, the public health, safety, or welfare, is put at risk, the proceedings shall be promptly commenced and determined in accordance with G.S. 150B-3. The Commissioner's decision regarding the competency of an inspector shall be determined after comparing the inspector's knowledge, skill, and care taken during inspections with that possessed and employed by boiler and pressure vessel inspection personnel in good standing. Industry custom and practice shall be considered but are not determinative. The Commissioner shall give the inspector opportunity to show that he or she is conducting his or her duties in a competent manner and that suspension or revocation is unwarranted. If the inspector believes that the decision of the Commissioner is not warranted, the inspector may take exception to the determination, in which event the inspector may appeal the final determination of the action pursuant to G.S. 150B.

*History Note: Authority G.S. 95-69.11; 95-69.15;  
Eff. May 29, 1981;*



*Amended Eff. March 1, 2017; March 1, 2015; July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended April 1, 2022.*

**13 NCAC 13 .0205 OWNER-USER INSPECTION ORGANIZATION**

(a) A company seeking to conduct inspections of its own pressure vessels shall file an application with the Chief Inspector, accompanied by the Certificate of Accreditation issued by the National Board as an Owner-User Inspection Organization.

(b) The company shall, in its application, designate a supervisor who shall be an engineer within its employ who, upon approval of the application, shall:

- (1) ascertain that the company's inspectors, pursuant to Rules .0202 and .0203 of this Section, are issued National Board Commission cards;
- (2) supervise inspections of pressure vessels and ensure that an inspection report, signed by the owner-user inspector, is filed at the equipment site;
- (3) notify the Chief Inspector of any unsafe pressure vessel that presents a condition of imminent danger;
- (4) maintain a master file of inspection records that shall be available for examination by the Chief Inspector or his representative during business hours and contain the following:
  - (A) identifying each pressure vessel by serial number and abbreviated description; and
  - (B) showing the date of the last and next scheduled inspection; and
- (5) on a date agreed upon with the Chief Inspector, file an annual statement signed by the supervisor showing the number of boilers and certifying that each inspection was conducted pursuant to this Chapter, accompanied by an administrative fee of fifty dollars (\$50.00) per vessel.

(c) Inspection certificates shall not be required for pressure vessels inspected under an owner-user program.

*History Note: Authority G.S. 95-69.11; 95-69.15; 95-69.16; Eff. May 29, 1981;*  
*Amended Eff. March 1, 2017; March 1, 2015; January 1, 2009; July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022.*

**13 NCAC 13 .0207 INSPECTION REPORTS**

(a) Inspectors shall file inspection reports with the Chief Inspector:

- (1) within 10 working days after the date each inspection is performed;
- (2) immediately for all conditions of imminent danger, or any condition that would result in the insurance company's refusal to issue or continue an insurance policy on the boiler or pressure vessel; and
- (3) shall include the insurance policy identifier covering any equipment inspected by a special inspector.

(b) Inspectors shall notify the Chief Inspector, in person or by electronic means, upon becoming aware of an accident which renders a boiler or pressure vessel inoperative or causes damage to property, personal injury, or death.

(c) Should the inspector, during the course of making an inspection, find a condition of imminent danger, he shall immediately notify the Chief Inspector, in person or by electronic means, so that steps might be taken to remove the device from service.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981;*  
*Amended Eff. July 1, 2006; January 1, 1995;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022.*

**13 NCAC 13 .0210 SHOP INSPECTIONS AND NATIONAL BOARD "R" CERTIFICATE QUALIFICATION REVIEWS**

(a) Shop Inspections.

- (1) Manufacturers or repair firms seeking to employ the Boiler Safety Bureau to act as their Authorized Inspection Agency pursuant to the ASME Code or National Board Inspection Code, shall enter into a written agreement with the North Carolina Department of Labor, Boiler Safety Bureau for this purpose.
- (2) An audit of the Deputy Inspector serving as the Authorized Inspector pursuant to Subparagraph (a)(1) of this Rule, and the contracting company in which he or she is working shall be conducted on an annual basis. The contracting company shall pay the audit fees required in Rule .0213 of this Section.

(b) National Board "R" Certificate Qualification Reviews

- (1) The Chief Inspector, or the Chief Inspector's designee, shall conduct the qualification reviews for issuance or renewal of the National Board "R" certificate of authorization pursuant to the National Board Inspection Code as adopted, except as provided in Subparagraph (b)(2) of this Rule.
- (2) The Chief Inspector or his designee shall not conduct the qualification reviews of those companies for which the Boiler Safety Bureau provides inspection services, or those companies which specifically request the review be conducted by the National Board.

- (3) A review to be conducted by the Boiler Safety Bureau shall be scheduled upon receipt of request by the National Board.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. March 1, 2015; October 1, 2008; July 1, 2006; January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. April 1, 2022.*

### **13 NCAC 13 .0211 CERTIFICATE INSPECTIONS**

- (a) A commissioned inspector shall inspect all boilers and pressure vessels at the time of installation and at regular intervals thereafter, as provided in this Rule.
- (b) Subject to the exceptions in Paragraphs (c) and (d) of this Rule, and after seven days' notice is given to the owner or user, an inspector shall conduct an internal inspection of a high pressure boiler at the time of installation and annually thereafter. An external inspection shall be conducted a minimum of once every 12 months while the boiler is in operation. The inspector shall ensure that the safety controls are operating as required. Issuance of the inspection certificate shall be based on the results of the internal inspection; however, if the inspector determines during the external inspection that an imminent danger exists, the inspector shall notify the Chief Inspector pursuant to 13 NCAC 13 .0301(d).
- (c) In place of the first internal inspection of a new high pressure boiler, an inspector may conduct an external inspection if the inspector determines that data sufficient to determine compliance with the rules of this Chapter can be gathered from an external inspection. This shall not apply to relocated used boilers or those for which extended inspection certificates are being requested.
- (d) Miniature boilers, coil-type watertube boilers, and boilers heating a fluid other than water which do not produce steam or vapor operating as high pressure boilers shall undergo an external inspection annually. Miniature boilers, coil-type watertube boilers, and boilers heating a fluid other than water operating as heating boilers shall undergo an external inspection biennially. Hobby boilers, locomotive boilers, and exhibition boilers shall be inspected annually, at the beginning of the season when they are anticipated to be operated.
- (e) Low pressure boilers and pressure vessels, except hydropneumatic storage tanks, shall undergo an external inspection biennially while in operation.
- (f) Owner-user inspectors shall conduct inspections for pressure vessels as prescribed in this Rule.
- (g) Inspectors may order coverings removed, internal inspections, external inspections, removal of internal parts, testing or calibration of controls, indicating and safety devices and pressure tests whenever conditions warrant further evaluation of the pressure equipment. The inspector may also require the boiler to be started to verify the operating controls.
- (h) Hydropneumatic storage tanks shall undergo an external inspection every four years while in operation.
- (i) When the inspector or Chief Inspector determines that a certificate cannot be issued as a result of an inspection, the boiler

or pressure vessel shall be reinspected after the necessary repairs are made.

(j) Inspections shall be conducted in accordance with the National Board Inspection Code. The inspector may require controls, indicating, and safety devices to be disassembled, tested, checked, or calibrated as necessary to ensure their proper operation.

(k) The Chief Inspector may extend an existing inspection certificate for a high pressure boiler for a period not exceeding 90 days beyond the certificate expiration date. The owner or user shall submit a written request to extend an existing inspection certificate, providing justification for an extension. The request shall include a report from a commissioned inspector of an external inspection which shall have been conducted no earlier than 60 days before the certificate expiration date, and the inspection report shall include a recommendation from the inspector for an extension to the inspection certificate.

(l) The inspection frequency established by this Rule may be modified by the Chief Inspector for individual boilers and pressure vessels if the Chief Inspector determines the frequency established herein is not appropriate, and that the safety attained by the normal inspection frequency will be otherwise obtained. Requirements for extended certificates for pressure equipment are detailed in Rule .0214 of this Chapter. Pressure vessels in "Locked High Radiation" areas may be certified for up to five years and may be inspected in accordance with Paragraph (m) of this Rule.

(m) Pressure retaining items which contain highly hazardous chemicals or biological elements that require level B personal protective equipment, or are in highly hazardous areas or pressure retaining items containing radioactive materials causing the pressure equipment to be classified as "Locked High Radiation," may be inspected remotely by video provided:

- (1) there is a listing of all the items under this criterion at the site. The list shall be kept current by the owner/user and any additions or deletions shall be kept current. Prior to inspection the inspector shall review the last inspection certificate, the ASME data report, any National Board ("NB") repair/alteration forms and any records of testing performed during the certificate period;
- (2) each item shall be inspected by means of live video feed that is monitored by the inspector. The inspector shall remain in radio contact with the individual operating the video equipment;
- (3) the inspector shall be in proximity to the item and shall witness the video equipment operator enter the location of the item;
- (4) a scan as complete as possible (within the limitations of the equipment) of all the pressure boundaries shall be witnessed by the inspector;
- (5) the ASME nameplate shall be viewed as well as the ASME/NB nameplate on any pressure relieving device on the item;
- (6) follow up inspections to verify the correction of deficiencies can be performed with a video inspection using the items outlined herein by the inspector;
- (7) the inspector shall submit an inspection report for each pressure retaining item at intervals

- specified in this Rule and the report shall be annotated indicating that the item was inspected pursuant to this Paragraph; and
- (8) any incident that renders the item inoperative shall be reported to the Bureau by the owner/user or the inspector within 24 hours.

*History Note: Authority G.S. 95-69.11; 95-69.14; 95-69.17; Eff. May 29, 1981;*  
*Amended Eff. August 1, 2011; July 1, 2006; January 1, 1995; March 2, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022.*

**13 NCAC 13 .0213 CERTIFICATE AND INSPECTION FEES**

- (a) An owner shall pay a fifty dollar (\$50.00) certificate and processing fee to the North Carolina Department of Labor for each boiler or pressure vessel inspected by an Insurance Inspector and found to be in compliance with the rules in this Chapter.
- (b) An owner shall pay an inspection and certificate fee to the North Carolina Department of Labor for each boiler or pressure vessel inspected by a Deputy Inspector as follows:

Boilers - An inspection of a boiler where the heating surface is:

	External	Internal
Less than 500 sq. ft.	\$50.00	\$85.00
500 or more sq. ft. but less than 5000 sq. ft.	\$120.00	\$235.00
5000 or more sq. ft.	\$330.00	\$600.00
Cast iron boilers	\$50.00	\$80.00
Locomotive boilers		
(Antique Exhibition/Show)	N/A	\$150.00
Exhibition boilers		
(Antique Exhibition/Show)	N/A	\$50.00
Hobby boilers	N/A	\$50.00

Pressure Vessels - An inspection of a pressure vessel, other than a heat exchanger, where the product of measurement in feet of the diameter or width, multiplied by its length is:

	External	Internal
Less than 50	\$50.00	\$60.00
50 or more but less than 70	\$85.00	\$135.00
70 or more	\$135.00	\$190.00

Heat Exchangers - An inspection of a heat exchanger, where the heating surface is:

	External
500 or more sq. ft. but less than 1000 sq. ft.	\$60.00
Less than 500 sq. ft.	\$50.00
1000 or more sq. ft. but less than 2000 sq. ft.	\$90.00
2000 or more sq. ft. but less than 3000 sq. ft.	\$130.00
3000 or more sq. ft.	\$180.00

- (c) In addition to the fees established in Paragraph (b) herein, a fee of ninety dollars (\$90.00) per hour, including travel time, plus each expense allowed by G.S. 138-6 and 138-7 and the standards and criteria established thereto by the Office of State Budget and Management's State Budget Director, at the applicable state rate

shall be paid to the North Carolina Department of Labor for each special inspection as defined by 13 NCAC 13 .0101(46) and for all inspections performed outside of normal working hours as defined by 13 NCAC 13 .0101(31).

- (d) A fee of three-hundred fifty dollars (\$350.00) per one-half day (four hours) or any part of one-half day or five-hundred sixty-dollars (\$560.00) for one day (four to eight hours) plus, in either case, each expense allowed by G.S. 138-6 and 138-7 and the standards and criteria established thereto by the Office of State Budget and Management's State Budget Director, at the applicable state rate shall be paid to the North Carolina Department of Labor for each shop inspection as defined by 13 NCAC 13 .0101(45).

- (e) A fee of four hundred fifty dollars (\$450.00) per one-half day (four hours) or any part of one-half day or six hundred ninety dollars (\$690.00) for one day (four to eight hours), plus, in either case, each expense allowed by G.S. 138-6 and 138-7 and the standards and criteria established thereto by the Office of State Budget and Management's State Budget Director, at the applicable state rate shall be paid to the North Carolina Department of Labor for audits as defined by 13 NCAC 13 .0101(4).

*History Note: Authority G.S. 95-69.11;*  
*Eff. May 29, 1981;*  
*Amended Eff. January 1, 1995; March 2, 1992; September 1, 1986;*  
*Temporary Amendment Eff. March 11, 1997;*  
*Temporary Amendment Eff. March 11, 1997 expired on December 27, 1997;*  
*Temporary Amendment Eff. December 10, 1997;*  
*Amended Eff. March 1, 2015; July 1, 2006; March 1, 2006; August 1, 1998;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022.*

**13 NCAC 13 .0214 EXTENDED PRESSURE EQUIPMENT OPERATING CERTIFICATES**

- (a) G.S. 95-69.16 and 13 NCAC 13 .0211(l) of this Chapter allows the Commissioner, as delegated to the Chief Inspector, to modify the inspection frequency for individual pressure equipment if it is determined that the new frequency will provide for the safety attained by the normal inspection frequency as defined in this Chapter. Maintenance programs, the condition of the pressure equipment, and a baseline inspection help to determine if the equipment is eligible for extended certification. The Chief Inspector may allow certificate renewal frequencies of up to three years. Companies wishing to have their pressure equipment given an extended certification must apply by letter to the Chief Inspector requesting extended certification.

- (b) For a first time extended inspection frequency, the following shall apply to both new and existing equipment:

- (1) Base Line Inspections: At the outset of an extended inspection frequency, a base line inspection must be conducted of all inside and outside accessible pressure boundaries. The inspected area shall be examined visually by a North Carolina Department of Labor, Boiler

Safety Bureau Inspector Supervisor along with a Deputy Inspector for evidence of cracking, discoloration, wear, pitting, bulging, blistering, corrosion and erosion, arc strikes, gouges, dents, and other signs of surface irregularities. Areas that are suspect shall be non-destructively examined, as defined in this Chapter, by a method acceptable to the Inspector Supervisor and Deputy Inspector. For areas that are still suspect after such examination, a more thorough supplemental examination and engineering evaluation of the discontinuities shall be conducted and discussed with the Chief Inspector or designee;

- (2) Inspection Mapping and Records: An inspection grid map shall be constructed for each pressure component detailing the areas found suspect. The grid shall not exceed four inch square. Suspect area shall be described in detail and photographs of such areas shall be taken. These records shall be kept and made available to the Deputy Inspector prior to the next required inspection;
- (3) Base Line Inspection of Boiler Tubes: The boiler tubes shall be examined by nondestructive examination. Tubes shall be examined for wear, corrosion, erosion, thinning, bulging, blistering, dents, discoloration, cracking and any other surface irregularities. Areas that are suspect shall be noted and discussed with the Inspector Supervisor and Deputy Inspector; and
- (4) Boiler Tube Inspection Mapping and Record: Where suspect tubes are identified, the boiler tubes shall be numbered in a logical sequence and the location of any suspect area shall be precisely defined and described in detail. Photographs of such areas shall be taken. These records shall be kept and made available to the Inspector Supervisor and Deputy Inspector prior to the next required inspection.

(c) Scheduling of Inspections for Extended Certificate: Approximately two months prior to a scheduled outage in which the boiler can be inspected, and prior to the current certificate expiration, the owner shall do the following in order to initiate the inspection process:

- (1) Send a letter addressed to the Chief Inspector requesting the extended certificate;
- (2) Contact the North Carolina Department of Labor, Boiler Safety Bureau at 919-707-7918 and request to speak with an Inspector Supervisor for the purpose of scheduling the inspections required for extending the boiler inspection certificate expiration for to up to 36 months; and
- (3) Agree with the Inspector Supervisor and Deputy Inspector on a date to meet for the external inspection of the boiler and to review reports. The boiler must be operating when the

external inspection is done. Heat recovery boilers with less than one percent capacity factor per year may be excluded from the need to operate during the external inspection but a letter requesting the exclusion must be sent to the Chief Inspector stating the capacity factor for the year before such an exclusion request can be granted.

(d) External Inspection: All report forms may be obtained from either NBIC or ASME. The following reports must be available to the Inspector Supervisor and Deputy Inspector at the external inspection:

- (1) NBIC R1 forms for the past five years for initial inspections and since the previous inspection for renewals;
- (2) A list of alterations scheduled, and those alterations done since the last internal inspection with the NBIC R2 forms;
- (3) Safety valve testing and repair reports for the past five years for initial inspections and since the previous inspection for renewals;
- (4) Fitness for Service reports for headers for the past five years for initial inspections and since the previous inspection for renewals. All Fitness for Service reports shall be documented on the National Board Form NB-403 or other created form that includes all information required on the Form NB-403;
- (5) Side elevation drawing of the boiler (8 ½ inches by 11 inches);
- (6) Steam & Mud drums - Original drum thickness, drawings, and manufacturer's data reports if available;
- (7) Copy of the last operating certificate and copies of the last three years of inspection reports;
- (8) Reports of annual external inspections by owner's insurance company or a Boiler Safety Bureau Deputy Inspector.

(e) Equipment inspection requirements during outage or shut-down:

- (1) An operational test for all safety valves shall be conducted after the equipment has been restarted. After the operational test, the organization performing the test shall affix an updated inspection tag to the valve. The Deputy Inspector shall verify the updated inspection tag and review any associated test report. In lieu of operational tests, it is acceptable to replace safety valves with new valves or valves reworked by a National Board "VR" or "NVR" authorized company;
- (2) Inspect the pressure equipment internally; and
- (3) Inspect the drums and shells using the following methods:
  - (A) Examine penetrations into the drum or shell wall for cracking; if the nozzles are visible from inside the drum or shell, then a visual examination is satisfactory; otherwise ultrasonically

examine the nozzles, from the outside surface, of at least 20 percent of the pressure equipment nozzles;

- (B) Visually examine inside the heads; and
- (C) When access permits, crawl through the drum or shell for a visual examination.

(f) Setting the Certificate Interval: If the requirements of this Rule are met, the Deputy Inspector shall submit an inspection report to the Chief Inspector with the recommendation for the extended certificate.

(g) Follow-up and Interim Inspections: External inspections of high pressure boilers are required six months after the certificate renewal, and then annually thereafter. The external inspections may be performed by the Boiler Safety Bureau Deputy Inspectors or by the owner's insurance inspector. The results of the inspection shall be documented on an inspection report and submitted to the Chief Inspector, North Carolina Department of Labor, Boiler Safety Bureau.

*History Note: Authority G.S. 95-69.11; 95-69.14; 95-69.16; Eff. July 1, 2011;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022; January 1, 2020.*

### **13 NCAC 13 .0303 INSPECTIONS REVEALING DEFICIENCIES**

(a) After a violation or deficiency has been reported by a Commissioned Inspector, the owner or user shall complete any required repairs or corrective action and request a reinspection or follow-up inspection as defined in this Chapter within 60 calendar days of the inspection, except in cases where the boiler or pressure vessel is removed from service, in which case the owner or user shall send in written confirmation, signed by the owner or user, that use of the boiler or pressure vessel has been discontinued and that the boiler or pressure vessel has been removed from the source of energy.

(b) Upon notification by the inspector of a boiler or pressure vessel for which continued operation creates a condition of imminent danger as defined in this Chapter, the Chief Inspector shall notify the owner or user by written notification within 15 calendar days stating that the use of the boiler or pressure vessel shall be discontinued.

(c) The owner or user may continue operation of the boiler or pressure vessel, including those boilers or pressure vessels that are condemned, during the 60 calendar day period noted in Paragraph (a) of this Rule, except that this provision shall not apply to boilers and pressure vessels after notification by the Chief Inspector to the owner or user that a condition of imminent danger exists as noted in Paragraph (b) of this Rule.

(d) After completion of any required repairs or corrective action, the boiler or pressure vessel shall be reinspected to the extent necessary to verify satisfactory completion of the required repairs or corrective action.

(e) An owner shall pay a fee of fifty dollars (\$50.00) to the North Carolina Department of Labor for each reinspection or follow-up inspection conducted by Deputy Inspectors.

*History Note: Authority G.S. 95-69.11;*  
*Eff. May 29, 1981;*  
*Amended Eff. March 1, 2015; July 1, 2006; January 1, 1995;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022.*

### **13 NCAC 13 .0401 DESIGN AND CONSTRUCTION STANDARDS**

(a) The design, construction, installation, inspection, stamping, certification, and operation of all boilers and pressure vessels shall conform to the rules in this Chapter and the Accepted Design and Construction Code as defined in this Chapter.

(b) Repairs and alterations to boilers and pressure vessels shall conform to the requirements of the National Board Inspection Code, except as provided in Paragraph (g) of this Rule.

(c) The rules of this Chapter shall control when any conflict is found to exist between the Rules and the accepted design and construction code or the National Board Inspection Code.

(d) Welded repairs and alterations shall be made only by an individual or organization in possession of a valid certificate of authorization for use of the National Board "R" symbol stamp, except as provided in Paragraph (g) of this Rule. Repairs and alterations shall be reported on National Board "R1" and "R2" reports respectively, as required by the NBIC. These reports are available through the National Board of Boiler and Pressure Vessel Inspectors. The reports, along with supplements used, shall be submitted to the Chief Inspector within 60 days of the completion of the work conducted. Repair and alteration reports shall be annotated with the NC identification number for the pressure equipment repaired.

(e) In such cases where removal of a defect in a pressure-retaining item is not practical at the time of discovery, the repair shall be conducted in compliance with the NBIC, Part 3 Repairs and Alterations, Repair of Pressure-Retaining Items Without Complete Removal of Defects. The Chief Inspector shall be contacted for approval of the use of this repair method.

(f) Repairs of safety valves or safety relief valves shall be made by an individual or organization in possession of a valid certificate of authorization for use of the National Board "VR" symbol stamp.

(g) Welded repairs and alterations to exhibition (historical) boilers of riveted or welded construction may be conducted by a welder who has been qualified in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, Welding and Brazing Qualifications.

*History Note: Authority G.S. 95-69.11;*  
*Eff. May 29, 1981;*  
*Amended Eff. October 1, 2014; July 1, 2011; January 1, 2009;*  
*July 1, 2006; January 1, 1995; February 1, 1989; February 1,*  
*1985; June 1, 1982;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*  
*Amended Eff. April 1, 2022; January 1, 2020.*

**13 NCAC 13 .0402 NORTH CAROLINA STAMPING AND REGISTRATION**

(a) Boilers and pressure vessels shall be registered with the National Board and shall bear the National Board stamping as follows:

- (1) high pressure boilers installed after November 2, 1946;
- (2) heating boilers, except cast iron or cast aluminum boilers, installed after January 1, 1976;
- (3) pressure vessels installed after January 1, 1979; and
- (4) hydropneumatic storage tanks installed after January 1, 1986.

(b) Boilers and pressure vessels may be exempted from the requirement for National Board registration provided the owner or user submits a letter requesting a variance to the Chief Inspector giving reason for the request. The requestor shall enclose with the letter a copy of the original manufacturer's data report. The documentation shall be reviewed by the Chief Inspector to determine if the information is traceable to the boiler or pressure vessel. The owner or user shall be advised of the Chief Inspector's decision within 30 working days with regard to the approval or disapproval of the request.

(c) Electric boilers shall be listed in accordance with the North Carolina Building Code in effect at the time of installation.

(d) The owner or user shall, upon request of the inspector, provide a manufacturer's data report for the boiler or pressure vessel.

(e) When a new boiler or pressure vessel is installed, or when an existing installation receives its first certificate inspection, a Deputy Inspector shall conduct the first inspection and apply a metal tag embossed or stamped with the North Carolina identification number (e.g., NC000) to the boiler or pressure vessel on or adjacent to the manufacturer's nameplate or stamping. If the boiler or pressure vessel is constructed of materials having adequate thickness to allow stamping, the identification number may be stamped onto the boiler or pressure vessel.

(f) The owner or user shall keep all required stamping exposed at all times unless a labeled removable cover is installed so that the stamping may be accessible at any time.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981;*

*Amended Eff. July 1, 2006; January 1, 1995; February 1, 1989; November 1, 1986;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;*

*Amended Eff. April 1, 2022.*

**13 NCAC 13 .0405 PRESSURE RELIEF DEVICES**

(a) Boilers and pressure vessels shall be protected from overpressurization by a pressure relief device. All pressure relief devices installed on any boiler or pressure vessel shall be constructed and stamped in accordance with the Accepted Design and Construction Code as defined in Rule .0101 of this Chapter.

(b) All pressure relief devices shall be stamped and capacity certified by the manufacturer indicating compliance with the National Board. The stamping shall include the set pressure and the relieving capacity.

(c) High pressure boilers with over 500 square feet of heating surface and electrically fired boilers having an input in excess of 1100 kW shall be provided with a minimum of two safety valves. For high pressure boilers with a combined bare tube and extended water-heating surface area exceeding 500 square feet, one safety valve is required if the design steam generating capacity of the boiler is less than 4,000 pounds of steam per hour.

(d) Safety valves and safety relief valves for heating boilers shall have a seat diameter of not less than ½ inch, and not more than 4 ½ inches.

(e) Pressure relief devices shall have a set pressure and relieving capacity in accordance with the requirements of the Accepted Design and Construction Code for the type of equipment on which the pressure relief device is installed. At least one pressure relief device shall have the set pressure set at not greater than the maximum allowable working pressure of the boiler or pressure vessel. The relieving capacity shall not be less than the minimum required relieving capacity indicated on the manufacturer's name plate or stamping, or as otherwise required by the Accepted Design and Construction Code. Safety relief valves installed on water heaters shall be of the combination temperature and pressure relieving type, or as permitted by the Accepted Design and Construction Code for modular water heaters.

(f) All safety valves installed on high pressure boilers shall be installed on top of the boiler, or in the case of watertube boilers on top of the upper drum, with the spindle in the vertical position. All safety valves and safety relief valves installed on heating boilers shall be on top of the boiler or on an opening at the highest practicable part, as determined by industry standards, of the side of the boiler, but in no case shall the safety valve be installed below the normal operating level for a steam boiler. Safety valves and safety relief valves installed on hot water heating boilers, hot water supply boilers, and steam heating boilers shall be installed with the spindles mounted in the vertical position. Safety relief valves for water heaters may be installed with the spindles mounted in either the vertical or horizontal position. In no case may pressure relief devices be mounted on appurtenances, unless permitted by the Accepted Design and Construction Code for modular heaters.

(g) The distance between the pressure relief device outlet nozzle on the boiler and the pressure relief device inlet shall be kept to a minimum consistent with the size of the pressure relief device and the pipe sizes required. In no case shall any valves or stops be installed in the inlet piping to the pressure relief device or in the discharge piping from the pressure relief device. The boiler outlet and the piping between the boiler outlet and the pressure relief device shall have a cross sectional area of not less than the cross sectional area of the pressure relief device inlet.

(h) Discharge piping from the pressure relief device outlet shall be the same size, or larger, than the outlet pipe connection on the pressure relief device and shall be extended full size to a safe location. A safe location shall be interpreted to mean a location within six

inches of the finished floor of the mechanical room, to a location outside the building terminating a safe distance above the building roof or to a location outside the building within six inches above the finished grade. For vessels such as organic fluid heaters where the medium presents a hazard, the discharge shall be to a containment vessel large enough to hold all anticipated pressure relief discharges. When pressure relief device discharge piping is routed vertically, piped drainage shall be provided by the use of drip pan elbows installed on the outlet of each pressure relief device served.

(i) Multiple pressure relief devices may be piped to the point of discharge using a common discharge header pipe. The header pipe size shall have a diameter sufficient to provide an equivalent cross-sectional area equal to or larger than the sum of the cross-sectional areas of the pressure relief device outlets to which it is connected.

(j) Pressure relief devices on pressure vessels may be installed with the spindle in the vertical or horizontal position. The pressure relief device inlet, discharge piping, and the requirement for piping the discharge to a safe location shall be the same as noted for boilers. The requirement for discharge piping is optional for pressure vessels used to store compressed air, inert gasses, water, or other fluids no more hazardous than water.

(k) Pressure relief devices for direct fired pressure vessels and for those used as air compressor storage tanks shall be installed directly on the pressure vessel with no intervening valves. Pressure relief devices for all other pressure vessels may be installed directly on the pressure vessel or in the piping system.

(l) A stop valve may be installed between a pressure vessel and the pressure relief device if one of the following is satisfied:

- (1) the stop valve is normally locked in the open position, and may only be closed when there is an attendant stationed at all times at the stop valve when it is in the closed position for testing purposes; or
- (2) isolating the pressure relief device from the pressure vessel by closing the stop valve also isolates the pressure vessel from the source of pressure.

(m) Pressure relief devices shall be sealed to prevent the valve from being taken apart without breaking the seal. Pressure relief devices for boilers and pressure vessels containing air, water, or steam shall be provided with a test lever, pull test ring or other mechanism that may be used to test the operation of the valve. Pressure relief devices which are required to be provided with a testing mechanism shall be readily accessible for testing from the work platform or other means, such as a pull chain, shall be provided so that the pressure relief device can be tested from the work platform.

(n) When a hot water supply boiler or storage vessel is heated indirectly by steam or hot water in a coil or pipe, the pressure relief device capacity shall be determined by the heating surface available for heat transfer, and the pressure relief device shall not be less than 1 inch diameter.

(o) A person shall not:

- (1) attempt to remove, tamper, alter or conduct any work on any pressure relief device while the boiler or pressure vessel is in operation, except as permitted by the Accepted Design and Construction Code or the National Board Inspection Code;
- (2) load a pressure relief device in any manner to maintain a working pressure in excess of the maximum allowable working pressure as stated on the inspection certificate;
- (3) operate any boiler or pressure vessel without the safety appliances as described in this Chapter, the Accepted Design and Construction Code, and the National Board Inspection Code;
- (4) use a pressure relief device required by this Chapter as an operating pressure control; or
- (5) remove the seal and attempt to adjust or otherwise work on a pressure relief device unless the person or company removing the seal is an authorized holder of a National Board "VR" stamp.

(p) If an owner or user can demonstrate that a pressure vessel is operating in a system of such design that the maximum allowable working pressure cannot be exceeded, the Chief Inspector shall waive the requirement for installation of a pressure relief device if the pressure vessel meets the safety requirements greater than or equal to the level of protection afforded by this Chapter and the Accepted Design and Construction Code, and does not pose a danger to persons or property.

(q) Pressure relief device piping shall be supported so that the piping is supported with no additional force being applied to the pressure relief device.

(r) Hydropneumatic storage tanks shall be provided with a relief valve of not less than ¾ inch NPS and rated in standard cubic feet per minute (SCFM). The relief valve shall be installed on top of the tank. This rule applies to any equipment or relief valves installed after January 1, 2009.

(s) Dead weight safety valves are prohibited from use on any boiler or pressure vessel regulated by this Chapter.

(t) When the minimum safety valve relieving capacity is not found on the data plate, the table in this Paragraph may be used to determine the required safety valve capacity for steam boilers. The factor noted in the table shall be multiplied by the heating surface of the boiler to determine required safety valve relieving capacity. When the table in this Paragraph is used for calculations, the additional requirements found in NBIC Part 4, Section 2 for calculating heating surface shall be utilized.

Table-0405 Guide for Estimating Steaming Capacity Based on Heating Surface

	Firetube Boilers	Watertube Boilers
Boiler heating surface:		

Hand-fired	5	6
Stoker-fired	7	8
Oil, gas, or pulverized fuel	8	10
Waterwall heating surface:		
Hand-fired	8	8
Stoker-fired	10	12
Oil, gas, or pulverized fuel	14	16
Copper-finned watertube		
Hand-fired	N/A	4
Stoker-fired	N/A	5
Oil, gas, or pulverized fuel-fired	N/A	6

*History Note:* Authority G.S. 95-69.11; 95-69.14;  
 Eff. May 29, 1981;  
 Amended Eff. June 1, 1992; February 1, 1985;  
 Recodified from 13 NCAC 13 .0404 Eff. January 1, 1995;  
 Amended Eff. January 1, 2009; July 1, 2006; January 1, 1995;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;  
 Amended Eff. April 1, 2022.

**13 NCAC 13 .0406 HIGH PRESSURE OR TEMPERATURE LIMIT CONTROL**

(a) Each automatically fired steam boiler or system of commonly connected steam boilers shall have at least one steam pressure control that shuts off the fuel supply to each boiler or system of commonly connected boilers when the pressure reaches a preset maximum operating pressure. In addition to the required operating pressure control, each individual automatically fired steam boiler shall have a high steam pressure limit control that shuts off the fuel supply to the boiler to prevent pressure in excess of the maximum allowable working pressure. The high limit control shall be equipped with a manual reset that shall prevent the boiler from being fired after the maximum pressure has been reached until the operator resets the switch manually. Steam boilers shall be provided with a syphons or equivalent that will provide a water seal and protect the pressure controls from being damaged by the steam.

(b) Each automatically fired hot water heating boiler, hot water supply boiler, water heater or each system of commonly connected hot water heating or supply boilers shall have at least one temperature-actuated control to shut off the fuel supply when the system water reaches a preset operating temperature. In addition to the required temperature control, each individual automatically fired hot water heating boiler, hot water supply boiler, and water heater shall have a high temperature limit control that prevents the water temperature from exceeding the maximum allowable temperature for the respective equipment. The high limit control for the hot water heating boilers and hot water supply boilers that are either stamped with the ASME "H" designator or are not constructed in accordance with the ASME Codes shall be equipped with a manual reset that shall prevent the boiler from being fired after the maximum temperature has been reached until the operator resets the switch manually. A manual reset is not required for boilers that bear the AMSE "HLW" designator or for unfired pressure vessels.

(c) Automatic resets or remote resets by electronic means are prohibited. The manual reset may be incorporated in the high limit control. Where the reset device is separate from the high limit

control, a means shall be provided to indicate actuation of the high limit control. Each high limit and operating control shall have its own sensing element and operating switch.

*History Note:* Authority G.S. 95-69.11; 95-69.14;  
 Eff. May 29, 1981;  
 Recodified from 13 NCAC 13 .0407 Eff. January 1, 1995;  
 Amended Eff. July 1, 2011; July 1, 2006; January 1, 1995;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018;  
 Amended Eff. April 1, 2022.

**13 NCAC 13 .0409 AUTOMATIC LOW-WATER FUEL CUTOFF CONTROLS AND WATER-FEEDING DEVICES**

(a) Each automatically fired steam or vapor boiler, except miniature boilers, shall meet the following criteria:

- (1) Have at least two automatic low-water fuel cutoff devices;
- (2) One of the low-water fuel cutoff devices may also be used to regulate the normal water level;
- (3) Each cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest visible part of the gauge glass;
- (4) One control shall be set to function ahead of the other. The lower fuel cutoff device shall be equipped with a manual reset which shall prevent the boiler from being fired after the low water limit has been reached until the operator resets the switch manually; and
- (5) The low-water fuel cutoffs shall be attached to the boiler or to the water column with no stops or valves. For float type low-water fuel cutoffs installed external to the boiler, each device shall be installed in individual chambers which shall be attached to the boiler by separate pipe



connections below the waterline. If the low-water fuel cutoff is connected to the boiler by pipe and fittings, no shut off valves of any type shall be placed in such pipe. A cross or equivalent fitting shall be placed at every right angle turn to facilitate cleaning. Piping from the boiler shall be not less than 1 inch NPS. Low-water fuel cutoff designs embodying a float and float bowl shall have a vertical straightaway valved drain pipe of not less than ¾ inch NPS at the lowest point in the water-equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

(b) Each automatically fired hot water heating boiler with heat input greater than 400,000 Btu/hr (117 kW) shall meet the following criteria:

- (1) Be protected by a low-water fuel cutoff intended for hot water service;
- (2) The fuel cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest safe permissible water level established by the boiler manufacturer;
- (3) The fuel cutoff device shall be equipped with a manual reset that shall prevent the boiler from being fired after the lowest water level has been reached until the operator resets the switch manually;
- (4) The low-water fuel cutoff installed in a hot water heating boiler system may be installed anywhere in the system above the lowest safe permissible water level established by the boiler manufacturer so long as there is no isolation valve installed between the device and the boiler. Connections to the system shall be not less than 1 inch NPS; and
- (5) Testing the operation of the low-water fuel cutoff on a hot water heating boiler system shall be provided without resorting to draining the entire system.

(c) Coil type boilers or watertube boilers requiring forced circulation to prevent overheating of the coils or tubes may have a flow-sensing device installed at or near the boiler proper, in lieu of a low-water fuel cutoff, to automatically cut off the fuel supply when the circulation of flow is interrupted. If there is a definitive water line, a low-water fuel cutoff complying with Paragraph (a) or (b) of this Rule, as applicable, shall be provided in addition to the flow-sensing device.

(d) Electric boilers where uncovering of the electrical element can lead to a risk of damage to the boiler shall be equipped with a low-water fuel cutoff device. In the case of electrode type boilers, where the reduction in water level provides a self-limiting control on heat input, a low-water cutoff control is not required.

(e) Automatically fired boilers shall be provided with a system to automatically maintain a constant water level so that the water level cannot fall below the lowest safe water line. This constant water level system requirement shall not apply to hot water

heating boilers used in closed-loop radiant floor heating systems when installed in accordance with the manufacturer's instructions. (f) Low water fuel cutoff devices embodying a float and float bowl shall be installed so that the boiler feedwater or makeup water cannot be introduced through the float chamber.

*History Note: Authority G.S. 95-69.14; Eff. January 1, 1982; Recodified from 13 NCAC 13 .0416 Eff. January 1, 1995; Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. April 1, 2022.*

### 13 NCAC 13 .0420 FIRING MECHANISM CONTROLS

(a) Automatically fired boilers and pressure vessels shall be provided with firing mechanism controls.

(b) Oil, gas-fired, and electrically heated boilers shall be equipped with primary flame safeguard safety controls, safety limit switches, and burners or electric elements that conform to the North Carolina Building Code in effect at the time of installation.

(c) Automatically fired boilers installed after January 1, 2007, shall be provided with a remote emergency fuel shut-off switch marked for identification. The remote shut-off switch shall be located outside each door of the room in which the boiler is located. Alternatively, the shut-off switch may be located just inside the entrance door(s) where the equipment is located. If there is more than one door to the boiler room, there shall be a switch located at each door designed for primary emergency egress from the boiler room. Boilers that bear the ASME "HLW" designator are not required to be provided with a remote emergency fuel shut-off switch.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. January 1, 1995; Amended Eff. February 1, 2009; July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended April 1, 2022.*

### 13 NCAC 13 .0422 EXHIBITION BOILERS

Exhibition boilers shall meet the following requirements:

- (1) Exhibition boilers that are not built to the ASME Code shall not be operated above 125 psig without written approval by the Chief Inspector, who shall base such approval on documentation and calculations submitted by the owner. The documents and calculations, with an inspection, must provide evidence to support the exhibition boiler operating at higher pressure ratings.
- (2) Safety relief valves shall not exceed the maximum allowed working pressure of the boiler and shall be ASME/NB certified valves.
- (3) Each boiler shall have:
  - (a) an operating pressure gauge which shall be approximately double the

- pressure to which the safety relief valve is set but in no case shall it be less than 1 1/2 times the set pressure;
- (b) a safety relief valve which shall be capable of protecting the boiler from over pressurization; and
- (c) a water gauge glass.
- (4) When fusible plugs are used, they shall conform to NBIC Part 2 as applicable.
- (5) A hydrostatic test may be required by the inspector if it is necessary to prove the integrity of the pressure boundary. The hydrostatic test shall not exceed 125 percent of the maximum allowed working pressure of the vessel or the set pressure of the safety valve, whichever is greater.
- (6) Upon completion of the inspection and payment of the applicable fees referenced in this Chapter, the Chief Inspector shall issue a Certificate of Inspection valid for one year.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. April 1, 2022.*

**13 NCAC 13 .0423 MODEL HOBBY BOILERS**

Model hobby boilers shall meet the following requirements:

- (1) Each boiler shall have:
  - (a) an operating pressure gauge that shall not be less than 1 1/2 times nor more than four times the operating pressure of the boiler;
  - (b) two safety relief valves each of which shall be capable of protecting the boiler from over pressurization. Requirements for ASME/NB certification are waived. If an ASME/NB safety relief valve is utilized, only one safety relief valve is required;
  - (c) an accessible mud-ring valve;
  - (d) a water gauge glass; and
  - (e) if constructed of copper, a fusible plug in the top of the crown sheet.
- (2) Upon completion of the inspection and payment of the applicable fees referenced in this Chapter, the Chief Inspector shall issue a Certificate of Inspection valid for one year.

*History Note: Authority G.S. 95-69.11; 95-69.14; Eff. July 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended April 1, 2022.*

**13 NCAC 13 .0701 STANDARDS**

- (a) Nuclear power components and systems covered under the scope of Section III of the ASME Code shall be designed, constructed, reworked, stamped, and installed in accordance with Section III of the ASME Code. Balance of plant items may be constructed under other applicable ASME Code sections.
- (b) All nuclear power systems falling under the scope of the ASME Code, Section III, are inspected in service under the requirements of Section XI of the ASME Code. The equipment is not required to be inspected under this Chapter. Balance of plant pressure equipment not covered by Section XI are required to be registered with a North Carolina identification number and inspected in accordance with this Chapter.
- (c) A vessel composed of two or more pressure retaining compartments shall constitute one complete unit for the purpose of assigning the North Carolina identification number.
- (d) The design criteria for nuclear power systems shall be certified as to compliance with Section III of the ASME Code.

*History Note: Authority G.S. 95-69.9; 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. October 1, 2008; July 1, 2006; June 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018; Amended Eff. April 1, 2022.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**15A NCAC 02L .0202 GROUNDWATER QUALITY STANDARDS**

- (a) The groundwater quality standards for the protection of the groundwaters of the State are those specified in this Rule. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the State, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage.
- (b) The groundwater quality standards for contaminants specified in Paragraphs (h) and (i) of this Rule are as listed, except that:
  - (1) Where the standard for a substance is less than the practical quantitation limit, the detection of that substance at or above the practical quantitation limit constitutes a violation of the standard. The practical quantitation limit, defined in Rule .0102 of this Subchapter, is a scientific standard pursuant to G.S. 150B-2(8a)(h).
  - (2) Where two or more substances exist in combination, the Director shall consider the effects of chemical interactions after consulting with the Division of Public Health and may establish maximum concentrations at values less than those established in accordance with Paragraphs (c), (h), or (i) of this Rule, based on additive toxic effects. In the absence of information to the contrary, in accordance with Paragraph (d) of this Rule, the carcinogenic

risks associated with carcinogens present shall be considered additive and the toxic effects associated with non-carcinogens present shall also be considered additive.

- (3) Where naturally occurring substances exceed the established standard, the standard shall be the naturally occurring concentration as established by the Director based upon site-specific conditions.
- (4) Where the groundwater standard for a substance is greater than the Maximum Contaminant Level (MCL), the Director shall apply the MCL as the groundwater standard at any private drinking water well or public water system well that may be impacted.

(c) Except for tracers, the use of which has been permitted by the Division in 15A NCAC 02C .0200, substances that are not naturally occurring and for which no standard is specified in Paragraphs (h) or (i) of this Rule shall not be permitted in concentrations at or above the practical quantitation limit in Class GA or Class GSA groundwaters. Any person may request the Director of the Division of Water Resources modify this requirement by establishing an Interim Maximum Allowable Concentration (IMAC) in accordance with the specific guidelines listed in Subparagraphs (1)-(9) of this Paragraph. In addition, any person may request the Director of the Division of Water Resources to update or remove an existing IMAC in accordance with the specific guidelines listed in Subparagraphs (1)-(9) of this Paragraph. The requestor shall submit relevant toxicological and epidemiological data, study results, and calculations in accordance with Paragraphs (d) and (e) of this Rule. The specific guidelines are as follows:

- (1) The Division shall review the request to determine whether the information submitted is in accordance with Paragraphs (d) and (e) of this Rule.
- (2) If the information submitted is not in accordance with Paragraphs (d) and (e) of this Rule, the Director of the Division of Water Resources shall request additional information from the requester. If the requester does not provide the additional information necessary to be in accordance with Paragraphs (d) and (e) of this Rule, the Director of the Division of Water Resources shall return the request.
- (3) If the information submitted is in accordance with Paragraphs (d) and (e) of this Rule, at least 30 days prior to establishing, updating, or removing an IMAC for any substance, the Division of Water Resources shall provide public notice and opportunity for comment that an IMAC has been requested to be established, updated, or removed. The public notice shall include:
  - (A) the request for the establishment, update, or removal of the IMAC for a substance,
  - (B) the level of the proposed IMAC, which is calculated by the Division of

- (C) Water Resources in accordance with Paragraphs (d) and (e) of this Rule, if applicable the level of the existing IMAC, and
- (D) the basis upon which the Division of Water Resources has relied in development of the proposed IMAC establishment, update, or removal.

This notice shall be emailed to interested parties and posted on the Division of Water Resources' website:

<https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/groundwater-imacs>.

- (4) If the Director of the Division of Water Resources finds the establishment, update or removal will not degrade the quality of the groundwaters, will not likely cause or contribute to pollution of the waters of the state, and will be protective of public health, then the Director shall establish, update or remove the IMAC. If the request does not meet the requirements listed in this Subparagraph, the Director of the Division of Water Resources shall return the request. The Director shall establish, update, or remove the IMAC or return the request within 180 calendar days of receipt of a request submitted in accordance with Paragraphs (d) and (e) of this Rule unless the requester agrees, in writing, to a longer period. Failure by the Director to establish, update or remove an IMAC or return the request within 180 days of receipt of a request submitted in accordance with Paragraphs (d) and (e) of this Rule shall be considered a return of the request.
- (5) If the Director of the Division of Water Resources establishes or updates an IMAC, the IMAC shall be posted on the Division of Water Resource's website and the Commission shall be notified in writing within 30 calendar days and at the next regularly scheduled Commission meeting that a new IMAC has been established or an existing IMAC has been updated or removed.
- (6) (A) Within 12 months of establishing an IMAC pursuant to this Paragraph, the Director of the Division of Water Resources shall make a recommendation to the Commission whether:
  - (i) a new groundwater standard in place of the IMAC should be established pursuant to this Rule; or
  - (ii) the IMAC should expire.
- (B) After a recommendation is presented by the Director under Part (A) of this Subparagraph, the Commission shall decide whether rulemaking shall be

- initiated to adopt a new groundwater standard in place of the IMAC.
- (C) If the Commission initiates rulemaking to adopt a new groundwater standard in place of the IMAC, then the IMAC shall remain in effect unless it expires under Subparagraph (7) of this Paragraph.
- (7) An IMAC shall expire upon the earliest of:
- (A) the date the Commission declines to initiate rulemaking to adopt a new groundwater standard in place of the IMAC under Part (B) of Subparagraph (c)(6);
- (B) the effective date of a Rule adopted by the Commission establishing a new groundwater standard in place of the IMAC; or
- (C) after initiating rulemaking pursuant to Part (C) of Subparagraph (c)(6), the date the Commission declines to adopt a new groundwater standard in place of the IMAC.
- (8) For any IMAC that expires prior to the adoption by the Commission of a new groundwater standard in place of the IMAC, any person may request an IMAC be established again under this Paragraph based on new information in accordance with Paragraphs (d) and (e) of this Rule that was not included in the original IMAC request to the Director or new site information that was not included in the original IMAC request to the Director.
- (9) The Director of the Division of Water Resources shall provide an annual update to the Commission on the status of pending IMAC requests and any IMACs that have been established, updated or removed during the previous calendar year.
- (d) Except as provided in Paragraph (f) of this Rule, groundwater quality standards for substances in Class GA and Class GSA groundwaters are established as the least of:
- (1) Systemic threshold concentration calculated as follows: [Reference Dose (mg/kg/day) x 70 kg (adult body weight) x Relative Source Contribution (0.10 for inorganics; 0.20 for organics)] / [2 liters/day (avg. water consumption)];
- (2) Concentration that corresponds to an incremental lifetime cancer risk of  $1 \times 10^{-6}$ ;
- (3) Taste threshold limit value;
- (4) Odor threshold limit value;
- (5) Maximum contaminant level; or
- (6) National secondary drinking water standard.
- (e) The following references, in order of preference, shall be used in establishing concentrations of substances which correspond to levels described in Paragraph (d) of this Rule:
- (1) Integrated Risk Information System (U.S. EPA);
- (2) Health Advisories (U.S. EPA Office of Drinking Water);
- (3) Other health risk assessment data published by the U.S. EPA; or
- (4) Other relevant, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.
- (f) The Commission may establish groundwater standards less stringent than existing maximum contaminant levels or national secondary drinking water standards if it finds, after public notice and opportunity for hearing in accordance with G.S. 150B, that:
- (1) more recent data published in the EPA health references listed in Paragraph (e) of this Rule results in a standard that is protective of public health, taste threshold, or odor threshold;
- (2) the standard will not endanger the public health and safety, including health and environmental effects from exposure to groundwater contaminants; and
- (3) compliance with a standard based on the maximum contaminant level or national secondary drinking water standard would produce substantial hardship without equal or greater public benefit.
- (g) Groundwater quality standards specified in Paragraphs (h) and (i) of this Rule shall be reviewed by the Division of Water Resources on a triennial basis to consider whether to recommend to the Commission that new or revised groundwater quality standards be adopted in accordance with Paragraphs (d) and (e) of this Rule.
- (h) Class GA Standards. Unless otherwise indicated, the standard refers to the total concentration in micrograms per liter ( $\mu\text{g/L}$ ) of any constituent in a dissolved, colloidal, or particulate form that is mobile in groundwater. These standards do not apply to sediment or other particulate matter that is preserved in a groundwater sample as a result of well construction or sampling procedures. The Class GA standards are:

Substance	Chemical Abstracts Service (CAS) Registry Number	Standard ( $\mu\text{g/L}$ )
Acenaphthene	83-32-9	80
Acenaphthylene	208-96-8	200
Acetic acid	64-19-7	5,000
Acetochlor	34256-82-1	100
Acetochlor ESA	187022-11-3	500
Acetochlor OXA	184992-44-4	500

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Acetone	67-64-1	6,000
Acetophenone	98-86-2	700
Acrolein	107-02-8	4
Acrylamide	79-06-1	0.008
Alachlor	15972-60-8	2
Aldrin	309-00-2	0.002
Anthracene	120-12-7	2,000
Antimony	7440-36-0	1
Arsenic	7440-38-2	10
Atrazine and chlorotriazine metabolites	1912-24-9	3
Barium	7440-39-3	700
Benzene	71-43-2	1
Benzo(a)anthracene	56-55-3	0.05
Benzo(a)pyrene	50-32-8	0.005
Benzo(b)fluoranthene	205-99-2	0.05
Benzo(g,h,i)perylene	191-24-2	200
Benzo(k)fluoranthene	207-08-9	0.5
Benzoic acid	65-85-0	30,000
Benzyl alcohol	100-51-6	700
Beryllium	7440-41-7	4
Bis(chloroethyl)ether	111-44-4	0.03
Bis(2-ethylhexyl) phthalate	117-81-7	3
Boron	7440-42-8	700
Bromodichloromethane	75-27-4	0.6
Bromoform	75-25-2	4
Bromomethane	74-83-9	10
n-Butanol	71-36-3	590
sec-Butanol	78-92-2	10,000
n-Butylbenzene	104-51-8	70
sec-Butylbenzene	135-98-8	70
tert-Butylbenzene	98-06-6	70
Butylbenzyl phthalate	85-68-7	1,000
Cadmium	7440-43-9	2
Caprolactam	105-60-2	4,000
Carbofuran	1563-66-2	40
Carbon disulfide	75-15-0	700
Carbon tetrachloride	56-23-5	0.3
Chlordane	12789-03-6	0.1
Chloride	16887-00-6	250,000
Chlorobenzene	108-90-7	50
Chloroethane	75-00-3	3,000
Chloroform	67-66-3	70
Chloromethane	74-87-3	3
2-Chlorophenol	95-57-8	0.4
2-Chlorotoluene	95-49-8	100
4-Chlorotoluene	106-43-4	24
Chromium	7440-47-3	10
Chrysene	218-01-9	5
Cobalt	7440-48-4	1
Coliform organisms (total)	No CAS Registry Number	1 per 100 mL
Color	No CAS Registry Number	15 color units
Copper	7440-50-8	1,000
Cyanide (free cyanide)	57-12-5	70

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2,4-D (2,4-dichlorophenoxy acetic acid)	94-75-7	70
Dalapon	75-99-0	200
DDD	72-54-8	0.1
DDE	72-55-9	0.1
DDT	50-29-3	0.1
Dibenz(a,h)anthracene	53-70-3	0.005
1,4-Dibromobenzene	106-37-6	70
Dibromochloromethane	124-48-1	0.4
1,2-Dibromo-3-chloropropane	96-12-8	0.04
Dibutyl phthalate	84-74-2	700
Dichloroacetic acid	79-43-6	0.7
1,2-Dichlorobenzene	95-50-1	20
1,3-Dichlorobenzene	541-73-1	200
1,4-Dichlorobenzene	106-46-7	6
Dichlorodifluoromethane	75-71-8	1,000
1,1-Dichloroethane	75-34-3	6
1,2-Dichloroethane	107-06-2	0.4
1,2-Dichloroethene (cis)	156-59-2	70
1,2-Dichloroethene (trans)	156-60-5	100
1,1-Dichloroethylene	75-35-4	350
2,4-Dichlorophenol	120-83-2	0.98
1,2-Dichloropropane	78-87-5	0.6
1,3-Dichloropropene (cis and trans isomers)	542-75-6	0.4
Dieldrin	60-57-1	0.002
Diethylphthalate	84-66-2	6,000
2,4-Dimethylphenol	105-67-9	100
2,4-Dinitrotoluene	121-14-2	0.05
2,6-Dinitrotoluene	606-20-2	0.05
Di-n-octyl phthalate	117-84-0	100
Dinoseb	88-85-7	7
1,4-Dioxane	123-91-1	3
Dioxin (2,3,7,8-TCDD)	1746-01-6	0.0002 ng/L
1,1-Diphenyl	92-52-4	400
Diphenyl ether	101-84-8	180
Diquat	85-00-7	20
Dissolved solids (total)	No CAS Registry Number	500,000
Disulfoton	298-04-4	0.3
Diundecyl phthalate (Santicizer 711)	3648-20-2	100
Endosulfan	115-29-7	40
Endosulfan sulfate	1031-07-8	40
Endothall	145-73-3	100
Endrin, total (includes endrin, endrin aldehyde, and endrin ketone)	72-20-8	2
Epichlorohydrin	106-89-8	4
Ethyl acetate	141-78-6	3,000
Ethylbenzene	100-41-4	600
Ethylene dibromide	106-93-4	0.02
Ethylene glycol	107-21-1	10,000
Fluoranthene	206-44-0	300
Fluorene	86-73-7	300
Fluoride	16984-48-8	2,000
Foaming agents	No CAS Registry Number	500
Formaldehyde	50-00-0	600

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Gross alpha (adjusted) particle activity (excludes radium-226 and uranium)	12587-46-1	15 pCi/L
Heptachlor	76-44-8	0.008
Heptachlor epoxide	1024-57-3	0.004
Heptane	142-82-5	400
Hexachlorobenzene	118-74-1	0.02
Hexachlorobutadiene	87-68-3	0.4
Hexachlorocyclohexane isomers (technical grade)	608-73-1	0.02
alpha-Hexachlorocyclohexane	319-84-6	0.006
beta-Hexachlorocyclohexane	319-85-7	0.02
gamma-Hexachlorocyclohexane (Lindane)	58-89-9	0.03
n-Hexane	110-54-3	400
Indeno(1,2,3-cd)pyrene	193-39-5	0.05
Iron	7439-89-6	300
Isophorone	78-59-1	40
Isopropyl ether	108-20-3	70
Isopropylbenzene	98-82-8	70
4-Isopropyltoluene	99-87-6	25
Lead	7439-92-1	15
Manganese	7439-96-5	50
Mercury	7439-97-6	1
Methanol	67-56-1	4,000
Methoxychlor	72-43-5	40
Methylene chloride	75-09-2	5
Methyl butyl ketone	591-78-6	40
Methyl ethyl ketone	78-93-3	4,000
Methyl isobutyl ketone	108-10-1	100
Methyl methacrylate	80-62-6	25
1-Methylnaphthalene	90-12-0	1
2-Methylnaphthalene	91-57-6	30
2-Methylphenol	95-48-7	400
3-Methylphenol	108-39-4	400
4-Methylphenol	106-44-5	40
Methyl tert-butyl ether (MTBE)	1634-04-4	20
Naphthalene	91-20-3	6
Nickel	7440-02-0	100
Nitrate (as N)	14797-55-8	10,000
Nitrite (as N)	14797-65-0	1,000
N-nitrosodimethylamine	62-75-9	0.0007
Oxamyl	23135-22-0	200
Pentachlorophenol	87-86-5	0.3
Petroleum aliphatic carbon fraction class (C5 – C8)	No CAS Registry Number	400
Petroleum aliphatic carbon fraction class (C9 – C18)	No CAS Registry Number	700
Petroleum aliphatic carbon fraction class (C19 – C36)	No CAS Registry Number	10,000
Petroleum aromatics carbon fraction class (C9 – C22)	No CAS Registry Number	200
pH	No CAS Registry Number	6.5 - 8.5 (no unit)
Phenanthrene	85-01-8	200
Phenol	108-95-2	30
Phorate	298-02-2	1

n-Propylbenzene	103-65-1	70
Propylene glycol	57-55-6	100,000
Pyrene	129-00-0	200
Selenium	7782-49-2	20
Silver	7440-22-4	20
Simazine	122-34-9	4
Strontium	7440-24-6	2,000
Styrene	100-42-5	70
Sulfate	14808-79-8	250,000
1,2,4,5-Tetrachlorobenzene	95-94-3	2
1,1,2,2-Tetrachloroethane	79-34-5	0.2
1,1,1,2-Tetrachloroethane	630-20-6	1
Tetrachloroethylene (PCE)	127-18-4	0.7
2,3,4,6-Tetrachlorophenol	58-90-2	200
Thallium	7440-28-0	2
Tin (inorganic forms)	7440-31-5	2,000
Toluene	108-88-3	600
Toxaphene	8001-35-2	0.03
2,4,5-TP (Silvex)	93-72-1	50
1,2,4-Trichlorobenzene	120-82-1	70
1,1,1-Trichloroethane	71-55-6	200
1,1,2-Trichloroethane	79-00-5	0.6
Trichloroethylene (TCE)	79-01-6	3
Trichlorofluoromethane	75-69-4	2,000
2,4,5-Trichlorophenol	95-95-4	63
2,4,6-Trichlorophenol	88-06-2	4
1,2,3-Trichloropropane	96-18-4	0.005
1,2,4-Trimethylbenzene	95-63-6	400
1,3,5-Trimethylbenzene	108-67-8	400
Vanadium	7440-62-2	7
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	200,000
Vinyl chloride	75-01-4	0.03
Xylenes	1330-20-7	500
Zinc	7440-66-6	1,000

(i) Class GSA Standards. The standards for this class are the same as those for Class GA except as follows:

- (1) chloride: allowable increase not to exceed 100 percent of the natural quality concentration; and
- (2) dissolved solids (total): 1,000,000 µg/L.

(j) Class GC Standards.

- (1) The concentrations of substances that, at the time of classification, exceed the standards applicable to Class GA or GSA groundwaters shall not be caused to increase, nor shall the concentrations of other substances be caused to exceed the GA or GSA standards as a result of further disposal of contaminants to or beneath the surface of the land within the boundary of the area classified GC.
- (2) The concentrations of substances that, at the time of classification, exceed the standards applicable to GA or GSA groundwaters shall not be caused to migrate as a result of activities within the boundary of the GC classification, so as to violate the groundwater or surface water

quality standards in adjoining waters of a different class.

- (3) Concentrations of specific substances, that exceed the established standard at the time of classification, are listed in Section .0300 of this Subchapter.

*History Note: Authority G.S. 143-214.1; 143-214.2; 143-215.3(a)(1); 143-215.3(a)(4); 143B-282(a)(2); 150B-2(8a)(h); 150B-19(6);*

*Eff. June 10, 1979;*

*Amended Eff. November 1, 1994; October 1, 1993; September 1, 1992; August 1, 1989;*

*Temporary Amendment Eff. June 30, 2002;*

*Amended Eff. August 1, 2002;*

*Temporary Amendment Expired February 9, 2003;*

*Amended Eff. April 1, 2013; January 1, 2010; April 1, 2005;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;*

*Amended Eff. April 1, 2022.*



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**15A NCAC 03I .0108 OCEAN FISHING PIERS**

(a) It shall be unlawful to fish with nets of any kind or from boats within the zone adjacent to any ocean fishing pier meeting the requirements of G.S. 113-185(a), if such zone is marked by one of the following methods or a combination of methods:

- (1) yellow range poles at least three inches in diameter and extending not less than six feet above the surface of the ground, and that are parallel to the pier and identified by signs with the name of the pier printed in letters at least three inches high; or
- (2) buoys that are yellow in color and not less than nine inches in diameter and extend no less than three feet above the surface of the water.

(b) It shall be unlawful to define a zone that extends more than 750 feet from the pier. When a marking system defines a smaller area than authorized, the limitations on fishing activities shall apply within the marked zone. When the marking system does not include buoys placed seaward of the pier's offshore end, the zone protected under G.S. 113-185 shall be limited to the areas parallel to the sides of the pier and shall include no area seaward of the offshore end of the pier.

(c) Owners of qualifying ocean piers shall be responsible for complying with all applicable local, State, and federal regulations for marking systems.

*History Note: Authority G.S. 113-134; 113-181; 113-182; 113-185; 143B-289.52;  
Eff. January 1, 1991;  
Recodified from 15A NCAC 3I .0008 Eff. December 17, 1996;  
Readopted Eff. April 1, 2022.*

**15A NCAC 03I .0115 REPLACEMENT COSTS OF MARINE AND ESTUARINE RESOURCES - FISH**

(a) In accordance with G.S. 113-267, this Rule shall apply to replacement costs of fish that have been taken, injured, removed, harmfully altered, damaged, or destroyed. Fish, as used throughout this Rule, is defined in G.S. 113-129(7).

(b) The relative value of fish species shall be considered only as they may bear on the necessity or desirability of actual replacement.

(c) Determining replacement costs: the replacement costs of species of fishes that have been taken, injured, removed, harmfully altered, damaged, or destroyed shall be determined as set forth in this Paragraph. The weight of each undersized fish shall be adjusted to the average weight of a fish on the minimum legal size established by the Marine Fisheries Commission for that species in a rule of the Marine Fisheries Commission or a proclamation issued pursuant to a rule of the Marine Fisheries Commission. The replacement cost shall be calculated based on the greater of either:

- (1) the cost of propagating and rearing the species in a hatchery and the cost of transporting them to areas of suitable habitat; or
- (2) the average annual ex-vessel value of fish species per pound.

(d) The cost of propagating, rearing, and transporting the fish and the average annual ex-vessel value of fish species per pound shall be taken from the Division of Marine Fisheries annual statistical report for the calendar year next preceding the year in which the offense was committed. When the cost of propagating, rearing, or transporting a particular species is not available, replacement costs shall be calculated based upon the average annual ex-vessel value of the species. When neither the cost of propagating, rearing, or transporting a particular species, nor the average annual ex-vessel value of the species is available, replacement costs shall be determined according to the following factors:

- (1) whether the species is classified as endangered or threatened;
- (2) the relative frequency of occurrence of the species in the State;
- (3) the extent of existing habitat suitable for the species within the State;
- (4) the dependency of the species on unique habitat requirements;
- (5) the cost of improving and maintaining suitable habitat for the species;
- (6) the cost of capturing the species in areas of adequate populations and transplanting them to areas of suitable habitat with low populations;
- (7) the availability of the species and the cost of acquisition for restocking purposes;
- (8) the cost of those species that when released, have a probability of survival in the wild; and
- (9) the ratio between the natural life expectancy of the species and the period of its probable survival when, having been reared in a hatchery, it is released to the wild.

(e) Replacement costs shall be assessed for the following fish:

- (1) Alewife (River Herring);
- (2) Amberjacks;
- (3) Anglerfish (Goosefish);
- (4) Bluefish;
- (5) Bonito;
- (6) Butterfish;
- (7) Carp;
- (8) Catfishes;
- (9) Cobia;
- (10) Croaker, Atlantic;
- (11) Cutlassfish, Atlantic;
- (12) Dolphinfish;
- (13) Drum, Black;
- (14) Drum, Red (Channel Bass);
- (15) Eels;
- (16) Flounders;
- (17) Flounders, Fluke;
- (18) Garfish;
- (19) Gizzard Shad;
- (20) Groupers;
- (21) Grunts;
- (22) Hakes;
- (23) Harvestfish;
- (24) Herring, Thread;
- (25) Hickory Shad;
- (26) Hogfish;

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|---|---|
| <ul style="list-style-type: none"> <li>(27) Jacks;</li> <li>(28) Kingfishes (Sea Mullet);</li> <li>(29) Mackerel, Atlantic;</li> <li>(30) Mackerel, King;</li> <li>(31) Mackerel, Spanish;</li> <li>(32) Menhaden, Atlantic;</li> <li>(33) Mulllets;</li> <li>(34) Perch, White;</li> <li>(35) Perch, Yellow;</li> <li>(36) Pigfish;</li> <li>(37) Pompano;</li> <li>(38) Porgies;</li> <li>(39) Scup;</li> <li>(40) Sea Basses;</li> <li>(41) Seatrout, Spotted;</li> <li>(42) Shad (American);</li> <li>(43) Sharks;</li> <li>(44) Sharks, Dogfish;</li> <li>(45) Sheepshead;</li> <li>(46) Skippers;</li> <li>(47) Snappers;</li> <li>(48) Spadefish, Atlantic;</li> <li>(49) Spot;</li> <li>(50) Striped Bass;</li> <li>(51) Swellfishes (Puffers);</li> <li>(52) Swordfish;</li> <li>(53) Tilefish;</li> <li>(54) Triggerfish;</li> <li>(55) Tuna;</li> <li>(56) Wahoo;</li> <li>(57) Weakfish (Grey Trout);</li> <li>(58) Whiting;</li> <li>(59) Wreckfish;</li> <li>(60) Unclassified Fish;</li> <li>(61) Brown Shrimp;</li> <li>(62) Pink Shrimp;</li> <li>(63) Rock Shrimp;</li> <li>(64) White Shrimp;</li> <li>(65) Unclassified Shrimp;</li> <li>(66) Clam, Hard;</li> <li>(67) Conchs;</li> <li>(68) Crabs, Blue, Hard;</li> <li>(69) Crabs, Blue, Soft;</li> <li>(70) Octopus;</li> <li>(71) Oyster;</li> <li>(72) Scallop, Bay;</li> <li>(73) Scallop, Calico;</li> <li>(74) Scallop, Sea;</li> <li>(75) Squid; and</li> <li>(76) Unclassified Shellfish.</li> </ul> | <ul style="list-style-type: none"> <li>determining the cost of the investigation shall be as follows:</li> <li>(A) the time expended by the employee or employees making the investigation, including travel time between the place of usual employment and the site of the investigation, and the time required in formulating and rendering the report;</li> <li>(B) the cost of service to the state of each employee concerned, including annual salary, hospitalization insurance, and the State's contribution to social security taxes and to the applicable retirement system;</li> <li>(C) subsistence of the investigating personnel, including meals, gratuities, and lodging away from home, when required;</li> <li>(D) the cost of all necessary transportation;</li> <li>(E) the use or rental of boats and motors, when required;</li> <li>(F) the cost of cleaning or repairing any uniform or clothing that may be damaged, soiled, or contaminated by reason of completing the investigation;</li> <li>(G) the cost of necessary telephonic communications; and</li> <li>(H) any other expense directly related to and necessitated by the investigation.</li> </ul> |
| <p>(f) Cost of investigations:</p> <ul style="list-style-type: none"> <li>(1) factors to be considered: upon any investigation required as provided by G.S. 143-215.3(a)(7) or by court order for the purpose of determining the cost of replacement of marine and estuarine resources that have been killed, taken, injured, removed, harmfully altered, damaged, or destroyed, the factors to be considered in</li> </ul>   | <ul style="list-style-type: none"> <li>(2) computation of costs: in assessing the cost of time expended in completing the investigation, the time expended by each person required to take part in the investigation shall be recorded in hours, the value of which shall be computed according to the ratio between the annual cost of service of the employee and his or her total annual working hours (2087 hours reduced by holidays, annual leave entitlement, and earned sick leave). Other costs shall be assessed as follows: <ul style="list-style-type: none"> <li>(A) subsistence: the per diem amount for meals, gratuities, and lodging away from home, not to exceed the then current maximum per diem for state employees;</li> <li>(B) transportation: total mileage by motor vehicle multiplied by: <ul style="list-style-type: none"> <li>(i) the then current rate per mile for travel by state-owned vehicle; or</li> <li>(ii) the then current rate per mile for travel by privately-owned vehicle, as applicable;</li> </ul> </li> <li>(C) boat and motor: ten dollars (\$10.00) per hour;</li> </ul> </li> </ul>  |

- (D) uniform and clothing cleaning and repair: actual cost;
- (E) telephonic communications: actual cost; and
- (F) other expenses: actual cost.

*History Note: Authority G.S. 113-134; 113-182; 113-267; 143B-289.52; Eff. March 1, 1995; Recodified from 15A NCAC 3I .0015 Eff. December 17, 1996; Readopted Eff. April 1, 2022.*

**15A NCAC 03I .0122 USER CONFLICT RESOLUTION**

(a) To address user conflicts, the Fisheries Director may, by proclamation, impose any of the following restrictions:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season; and
- (5) specify quantity.

This authority may be used based on the Fisheries Director's own findings or on the basis of a request made in accordance with Paragraph (b) of this Rule. The Fisheries Director shall hold a public meeting in the area of the user conflict prior to issuance of a proclamation based on his or her own findings.

(b) Request for user conflict resolution:

- (1) any person desiring user conflict resolution may make such request in writing addressed to the Director of the Division of Marine Fisheries, 3441 Arendell Street, P.O. Box 769, Morehead City, NC 28557. A request shall contain the following information:
  - (A) a map of the affected area including an inset vicinity map showing the location of the area with detail sufficient to permit on-site identification and location;
  - (B) identification of the user conflict causing a need for user conflict resolution;
  - (C) recommended solution for resolving user conflict; and
  - (D) name and address of the person requesting user conflict resolution.
- (2) within 90 days of the receipt of the information required in Subparagraph (b)(1) of this Paragraph, the Fisheries Director shall review the information and determine if user conflict resolution is necessary. If user conflict resolution is not necessary, the Fisheries Director shall deny the request. If user conflict resolution is necessary, the Fisheries Director or his or her designee shall hold a public meeting in the area of the user conflict. The requestor shall present his or her request at the public meeting.
- (3) following the public meeting as described in Subparagraph (b)(2) of this Paragraph, the Fisheries Director shall refer the users in the

conflict for mediation or deny the request. If the user conflict cannot be resolved through mediation, the Fisheries Director shall submit for approval a proclamation to the Marine Fisheries Commission that addresses the conflict.

- (4) proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The provisions of Rule .0102 of this Section terminating suspension of a rule pending the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.

*History Note: Authority G.S. 113-134; 113-181; 113-182; 113-221.1; 143B-289.52; Eff. May 1, 2015; Readopted Eff. April 1, 2022.*

**15A NCAC 03J .0103 GILL NETS, SEINES, IDENTIFICATION, RESTRICTIONS**

(a) It shall be unlawful to use gill nets:

- (1) with a mesh length less than two and one-half inches; and
- (2) in Internal Waters from April 15 through December 15, with a mesh length five inches or greater and less than five and one-half inches.

(b) The Fisheries Director may, by proclamation, limit or prohibit the use of gill nets or seines in Coastal Fishing Waters, or any portion thereof, or impose any of the following restrictions on gill net or seine fishing operations:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods, including:
  - (A) gill net mesh length, but the maximum length specified shall not exceed six and one-half inches in Internal Waters; and
  - (B) net number and length, but for gill nets with a mesh length four inches or greater, the maximum length specified shall not exceed 2,000 yards per vessel in Internal Waters regardless of the number of individuals involved; and
- (4) specify season.

(c) It shall be unlawful to use fixed or stationary gill nets in the Atlantic Ocean, drift gill nets in the Atlantic Ocean for recreational purposes, or any gill nets in Internal Waters unless nets are marked by attaching to them at each end two separate yellow buoys that shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. Gill nets that are not connected together at the top line are considered as individual nets, requiring two buoys at each end of each individual net. Gill nets connected together at the top line are considered as a continuous net requiring two buoys at each end of the continuous net. Any other marking buoys on

gill nets used for recreational purposes shall be yellow, except that one additional buoy, any shade of hot pink in color, constructed as specified in this Paragraph, shall be added at each end of each individual net. Any other marking buoys on gill nets used in commercial fishing operations shall be yellow, except that one additional identification buoy of any color or any combination of colors, except any shade of hot pink, may be used at either or both ends. The gear owner's last name and initials shall be identified on a buoy on each end by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
  - (2) gear owner's U.S. vessel documentation name.
- (d) It shall be unlawful to use gill nets:

- (1) within 200 yards of any flounder or other finfish pound net set with lead and either pound or heart in use, except from August 15 through December 31 in all Coastal Fishing Waters of the Albemarle Sound, including its tributaries to the boundaries between Coastal and Joint Fishing Waters, west of a line beginning at a point 36° 04.5184' N – 75° 47.9095' W on Powell Point; running southerly to a point 35° 57.2681' N – 75° 48.3999' W on Caroon Point, it shall be unlawful to use gill nets within 500 yards of any pound net set with lead and either pound or heart in use; and
- (2) from March 1 through October 31 in the Intracoastal Waterway within 150 yards of any railroad or highway bridge.

(e) It shall be unlawful to use gill nets within 100 feet either side of the center line of the Intracoastal Waterway Channel south of the entrance to the Alligator-Pungo River Canal near Beacon "54" in Alligator River to the South Carolina line, unless such net is used in accordance with the following conditions:

- (1) no more than two gill nets per vessel may be used at any one time;
- (2) any net used must be attended by the fisherman from a vessel who shall at no time be more than 100 yards from either net; and
- (3) any individual setting such nets shall remove them, when necessary, in sufficient time to permit unrestricted vessel navigation.

(f) It shall be unlawful to use runaround, drift, or other non-stationary gill nets, except as provided in Paragraph (e) of this Rule:

- (1) to block more than two-thirds of any natural or manmade waterway, sound, bay, creek, inlet, or any other body of water; or
- (2) in a location where it will interfere with navigation.

(g) It shall be unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation in the gill net attended areas designated in 15A NCAC 03R .0112(a).

(h) It shall be unlawful to use unattended gill nets with a mesh length less than five inches in a commercial fishing operation from May 1 through November 30 in the Internal Waters and Joint

Fishing Waters of the state designated in 15A NCAC 03R .0112(b).

(i) It shall be unlawful for any portion of a gill net with a mesh length five inches or greater to be within 10 feet of any point on the shoreline while set or deployed, unless the net is attended from June through October in Internal Waters.

(j) For the purpose of this Rule and 15A NCAC 03R .0112, "shoreline" shall mean the mean high water line or marsh line, whichever is more seaward.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. August 1, 1998; March 1, 1996; March 1, 1994; July 1, 1993; September 1, 1991;*

*Temporary Amendment Eff. October 2, 1999; July 1, 1999; October 22, 1998;*

*Amended Eff. April 1, 2001;*

*Temporary Amendment Eff. May 1, 2001;*

*Amended Eff. April 1, 2016; April 1, 2009; December 1, 2007; September 1, 2005; August 1, 2004; August 1, 2002;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0104 TRAWL NETS**

(a) It shall be unlawful to possess aboard a vessel while using a trawl net in Internal Waters more than 500 pounds of finfish from December 1 through March 1, and 1,000 pounds of finfish from March 2 through November 30.

(b) It shall be unlawful to use trawl nets:

- (1) in Internal Waters from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except:

- (A) from December 1 through March 1 from one hour after sunset on Friday to one hour before sunrise on Monday in the areas listed in Subparagraph (b)(5) of this Paragraph; or
- (B) for a holder of a Permit for Weekend Trawling for Live Shrimp in accordance with 15A NCAC 03O .0503;

- (2) for the taking of oysters;

- (3) in Albemarle Sound, Currituck Sound, and their tributaries, west of a line beginning on the south shore of Long Point at a point 36° 02.4910' N – 75° 44.2140' W; running southerly to the north shore on Roanoke Island to a point 35° 56.3302' N – 75° 43.1409' W; running northwesterly to Caroon Point to a point 35° 57.2255' N – 75° 48.3324' W;

- (4) in the areas described in 15A NCAC 03R .0106, except that the Fisheries Director may, by proclamation, open the area designated in 15A NCAC 03R .0106(1) to peeler crab trawling;
- (5) from December 1 through March 1 from one hour after sunset to one hour before sunrise in the following areas:

- (A) in Pungo River, north of a line beginning on Currituck Point at a point

35° 24.5833' N – 76° 32.3166' W, running southwesterly to Wades Point to a point 35° 23.3062' N – 76° 34.5135' W;

(B) in Pamlico River, west of a line beginning on Wades Point at a point 35° 23.3062' N – 76° 34.5135' W, running southwesterly to Fulford Point to a point 35° 19.8667' N – 76° 35.9333' W;

(C) in Bay River, west of a line beginning on Bay Point at a point 35° 11.0858' N – 76° 31.6155' W, running southerly to Maw Point to a point 35° 09.0214' N – 76° 32.2593' W;

(D) in Neuse River, west of a line beginning on the Minnesott side of the Neuse River Ferry at a point 34° 57.9116' N – 76° 48.2240' W, running southerly to the Cherry Branch side of the Neuse River Ferry to a point 34° 56.3658' N – 76° 48.7110' W;

(E) in New River, all waters upstream of the N.C. Highway 172 Bridge when opened by proclamation; and

(6) in designated pot areas opened to the use of pots by Rule .0301(a)(2) of this Subchapter and described in 15A NCAC 03R .0107(a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) within an area bound by the shoreline to the depth of six feet.

(c) Mesh sizes for shrimp and crab trawl nets shall meet the requirements of 15A NCAC 03L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or cod end (tailbag) modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

(e) It shall be unlawful to use shrimp trawl nets for recreational purposes unless the trawl net is marked by attaching to the cod end (tailbag) a floating buoy, any shade of hot pink in color. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be identified on the attached buoy by using an engraved buoy or by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) gear owner's U.S. vessel documentation name.

(f) It shall be unlawful to use shrimp trawl nets for the taking of blue crabs in Internal Waters, except that it shall be permissible to take or possess blue crabs incidental to shrimp trawling in accordance with the following limitations:

- (1) for individuals using shrimp trawl nets authorized by a Recreational Commercial Gear License, 50 blue crabs per day, not to exceed 100 blue crabs if two or more Recreational Commercial Gear License holders are on board the same vessel; and

(2) for commercial operations, crabs may be taken incidental to lawful shrimp trawl net operations provided that the weight of the crabs shall not exceed the greater of:

- (A) 50 percent of the total weight of the combined crab and shrimp catch; or
- (B) 300 pounds.

(g) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods consistent with the requirements of this Rule.

*History Note: Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52;*

*Eff. February 1, 1991;*

*Amended Eff. August 1, 1998; May 1, 1997; March 1, 1994; February 1, 1992;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. May 1, 2017; April 1, 2014; April 1, 2009; September 1, 2005; August 1, 2004; August 1, 2000;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

### **15A NCAC 03J .0106 CHANNEL NETS**

(a) It shall be unlawful to use a channel net:

- (1) until the Fisheries Director specifies by proclamation, time periods and areas for the use of channel nets and other fixed nets for shrimping;
- (2) without yellow light reflective tape on the top portion of each staff or stake and on any buoys located at either end of the net;
- (3) with any portion of the set including boats, anchors, cables, ropes, or nets within 50 feet of the center line of the Intracoastal Waterway Channel;
- (4) in the middle third of any navigation channel marked by U.S. Army Corps of Engineers or U.S. Coast Guard; and
- (5) unless attended by the fisherman who shall be no more than 50 yards from the net at all times.

(b) It shall be unlawful to use or possess aboard a vessel any channel net with a corkline exceeding 40 yards.

(c) It shall be unlawful to leave any channel net, channel net buoy, or channel net stakes in Coastal Fishing Waters from December 1 through March 1.

(d) It shall be unlawful to use floats or buoys of metallic material for marking a channel net set.

(e) From March 2 through November 30, cables used in a channel net operation shall, when not attached to the net, be connected together and any attached buoy shall be connected by non-metal line.

(f) It shall be unlawful to leave channel net buoys in Coastal Fishing Waters without yellow light reflective tape on each buoy and without the gear owner's last name and initials being legibly printed on each buoy. If a vessel is used, the identification shall also include one of the following:

- (1) gear owner's current motor boat registration number; or
- (2) gear owner's U.S. vessel documentation name.

(g) It shall be unlawful to use any channel nets, anchors, lines, or buoys in such a manner as to constitute a hazard to navigation.

(h) It shall be unlawful to use channel nets for the taking of blue crabs in Internal Waters, except that it shall be permissible to take or possess blue crabs incidental to channel net operations in accordance with the following limitations:

- (1) crabs may be taken incidental to lawful channel net operations provided that the weight of the crabs shall not exceed:
  - (A) 50 percent of the total weight of the combined crab and shrimp catch; or
  - (B) 300 pounds, whichever is greater.
- (2) The Fisheries Director may, by proclamation, close any area to channel net use for specific time periods consistent with the requirements of this Paragraph.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

*Eff. January 1, 1991;*

*Amended Eff. September 1, 2005;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0111 FYKE OR HOOP NETS**

(a) It shall be unlawful to use fyke or hoop nets in Coastal Fishing Waters without:

- (1) the owner's identification being printed on a sign no less than six inches square, attached on an outside corner stake of each such net; or
- (2) each net being marked by attaching a floating buoy to a single net and a buoy on each end of the line connecting multiple (two or more) nets, when stakes are not used. Buoys shall be of any color except any shade of yellow or any shade of hot pink, or any combination of colors that include any shade of yellow or any shade of hot pink. Buoys shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The gear owner's last name and initials shall be identified on the attached buoy by using engraved buoys or by attaching engraved metal or plastic tags to the buoy. If a vessel is used, the identification shall also include:
  - (A) gear owner's current motor boat registration number; or
  - (B) gear owner's U.S. vessel documentation name.

(b) It shall be unlawful to use a fyke or hoop net within 200 yards of any operational pound net set.

(c) It shall be unlawful to use a fyke or hoop net within 150 yards of any railroad or highway bridge.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52;*

*Temporary Adoption Eff. August 1, 2000;*

*Amended Eff. April 1, 2003; April 1, 2001;*

*Readopted Eff. (Pending legislative review pursuant to S.L. 2019-198).*

#### **15A NCAC 03J .0202 ATLANTIC OCEAN**

In the Atlantic Ocean:

- (1) It shall be unlawful to use nets from June 15 through August 15 in the waters of Masonboro Inlet or in the ocean within 300 yards of the beach between Masonboro Inlet and a line running southeasterly through the water tank 34° 13.1500' N – 77° 47.3000' W on the northern end of Wrightsville Beach, a distance of 4400 yards parallel with the beach.
- (2) It shall be unlawful to use trawls within one-half mile of the beach between the North Carolina/Virginia state line and Oregon Inlet.
- (3) It shall be unlawful to use a trawl with a mesh length less than four inches in the main body, three inches in the extension, and one and three-fourths inches in the cod end or tailbag inshore of a line beginning on the western side of Beaufort Inlet Channel at a point 34° 41.3000' N – 76° 40.1333' W; running westerly parallel to and one-half miles from the shore off Salter Path to a point 34° 40.5333' N – 76° 53.7500' W.
- (4) It shall be unlawful to use trawl nets, including flynets, southwest of the 9960-Y chain 40250 LORAN C line (running offshore in a southeasterly direction) from Cape Hatteras to the North Carolina/South Carolina state line except:
  - (a) shrimp trawls as defined in 15A NCAC 03L .0103;
  - (b) crab trawls as defined in 15A NCAC 03L .0202; or
  - (c) flounder trawls as defined in 15A NCAC 03M .0503.
- (5) It shall be unlawful to possess finfish (including pursuant to 15A NCAC 03M .0102) incidental to shrimp or crab trawl operations from December 1 through March 31 unless the weight of the combined catch of shrimp and crabs exceeds the weight of finfish, except an additional 300 pounds of kingfish (*Menticirrhus*, spp.) may be taken south of Bogue Inlet.
- (6) It shall be unlawful to use unattended gill nets or block or stop nets in the Atlantic Ocean within 300 yards of the beach from Beaufort Inlet to the North Carolina/South Carolina state line from sunset Friday to sunrise Monday from Memorial Day through Labor Day.
- (7) It shall be unlawful to use gill nets in the Atlantic Ocean with a mesh length greater than seven inches from April 15 through December 15.
- (8) It shall be unlawful to use shrimp trawls in all waters west of a line beginning at the

southeastern tip of Baldhead Island at a point 33° 50.4833' N – 77° 57.4667' W; running southerly in the Atlantic Ocean to a point 33° 46.2667' N – 77° 56.4000' W; from 9:00 p.m. through 5:00 a.m.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Eff.* January 1, 1991;  
*Amended Eff.* March 1, 1996; September 1, 1991;  
*Temporary Amendment Eff.* December 1, 1997;  
*Amended Eff.* October 1, 2008; August 1, 2004; August 1, 1998;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03J .0208 NEW RIVER**

- (a) It shall be unlawful to use trawl nets except skimmer trawls upstream of the Highway 172 Bridge over New River.
- (b) It shall be unlawful to use skimmer trawls upstream of the Highway 172 Bridge over New River from 9:00 p.m. through 5:00 a.m. from August 16 through November 30.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Eff.* August 1, 1998;  
*Amended Eff.* May 1, 2015; August 1, 2004;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03J .0401 FISHING GEAR**

- (a) The Fisheries Director, in order to address issues involving user conflicts may, by proclamation, close the areas described in Paragraph (b) of this Rule to the use of specific fishing gear.
- (b) It shall be unlawful to use fishing gear as specified by proclamation at the time and dates specified in the proclamation between the Friday before Easter through December 31 in the following areas when such areas have been closed by proclamation:

- (1) all or part of the Atlantic Ocean, up to one-half mile from the beach;
- (2) up to one-half mile in all directions of Oregon Inlet;
- (3) up to one-half mile in all directions of Hatteras Inlet;
- (4) up to one-half mile in all directions of Ocracoke Inlet;
- (5) up to one-half mile of the Cape Lookout Rock Jetty;
- (6) up to one-half mile in all directions of fishing piers open to the public;
- (7) up to one-half mile in all directions of State Parks; and
- (8) up to one-half mile of marinas as defined by the Coastal Resources Commission.

- (c) The Fisheries Director shall specify in the proclamation the boundaries of the closure through the use of maps, legal descriptions, prominent landmarks, or other permanent type markers.

- (d) The Fisheries Director shall hold a public meeting in the affected area before issuance of proclamations authorized by this Rule.

*History Note:* Authority G.S. 113-133; 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff.* July 1, 1993;  
*Amended Eff.* June 1, 1996; March 1, 1995; October 1, 1993;  
*Readopted Eff.* April 1, 2022.

**15A NCAC 03J .0402 FISHING GEAR RESTRICTIONS**

- (a) It shall be unlawful to use commercial fishing gear in the following areas during dates and times specified for the identified areas:

- (1) Atlantic Ocean - Dare County:
  - (A) Nags Head:
    - (i) seines and gill nets shall not be used from the North Town Limit of Nags Head at Eight Street southward to Gulf Street:
      - (I) from Wednesday through Saturday of the week of the Nags Head Surf Fishing Tournament held during October of each year the week prior to Columbus Day; and
      - (II) from November 1 through December 15; and
    - (ii) commercial fishing gear shall not be used within 750 feet of licensed fishing piers when open to the public;
  - (B) Oregon Inlet: seines and gill nets shall not be used from the Friday before Easter through December 31:
    - (i) within one-quarter mile of the beach from the National Park Service Ramp #4 (35° 48.2500' N – 75° 32.7000' W) on Bodie Island to the northern terminus of the Bonner Bridge (35° 46.5000' N – 75° 32.3666' W) on Hwy. 12 over Oregon Inlet; and
    - (ii) within the area known locally as "The Pond", a body of water generally located to the northeast of the northern terminus of the Bonner Bridge; and
  - (C) Cape Hatteras (Cape Point): seines and gill nets shall not be used within one-half mile of Cape Point from the Friday before Easter through

- December 31. The closed area is defined by a circle with a one-half mile radius having the center near Cape Point at a point 35° 12.9000' N – 75° 31.7166' W;
- (2) Atlantic Ocean - Onslow and Pender counties: commercial fishing gear shall not be used during the time specified for the following areas:
- (A) Topsail Beach: from January 1 through December 31, that area around Jolly Roger Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier and on the northeast and southwest by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundary; and
- (B) Surf City:
- (i) from January 1 to June 30, that area around the Surf City Fishing Pier bordered on the offshore side by a line 750 feet from the end of the pier, on the southwest by a line beginning at a point on the beach one-quarter mile from the pier and on the northeast by a line beginning at a point on the beach 750 feet from the pier extending seaward to intersect the offshore boundaries; and
- (ii) from July 1 to December 31, those areas around the pier bordered on the offshore side by a line 750 feet from the end of the pier, on the southwest by a line beginning at a point on the beach 750 feet from the pier and on the northeast by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundaries;
- (3) Atlantic Ocean - New Hanover County: Carolina Beach Inlet through Kure Beach: commercial fishing gear shall not be used during the times specified for the following areas:
- (A) from the Friday before Easter to November 30, within the zones adjacent to the Carolina Beach and Kure Beach Fishing Piers bordered on the offshore side by a line 750 feet from the ends of the piers and on the north and south by a line beginning at a point on the beach one-quarter mile from the pier extending seaward to intersect the offshore boundary, except the southern boundary for Kure Beach Pier is a line beginning on the beach one mile south of the pier to the offshore boundary for the pier; and from May 1 to November 30, within 900 feet of the beach, from Carolina Beach Inlet to the southern end of Kure Beach with the following exceptions:
- (i) from one-quarter mile north of Carolina Beach Fishing pier to Carolina Beach Inlet from October 1 to November 30:
- (I) strike nets may be used within 900 feet of the beach; and
- (II) attended nets may be used between 900 feet and one-quarter mile of the beach;
- (ii) strike nets and attended gill nets may be used within 900 feet of the beach from October 1 to November 30 in other areas except those described in Part (a)(3)(A) and Subpart (a)(3)(B)(i) of this Subparagraph; and
- (iii) it shall be unlawful to use commercial fishing gear within 900 feet of the beach from Carolina Beach Inlet to a point on the beach 33°55.0026' N – 77°56.6630' W near the former location of New Inlet during the October surf fishing tournament in Carolina Beach; and
- (4) Pamlico River – Beaufort County: Goose Creek State Park: commercial fishing gear shall not be used from the Friday before Easter through December 31 for the following areas:
- (A) within 150 feet of the shoreline within park boundaries; and
- (B) within the marked channel from Dinah Landing to the mouth of Upper Goose Creek.
- (b) It shall be unlawful to use gill nets or seines in the following areas during dates and times specified for the identified areas:
- (1) Neuse River and South River, Carteret County: no more than 1,200 feet of gill nets having a stretched mesh of five inches or larger shall be used:



- (A) within one-half mile of the shore from Winthrop Point at Adams Creek to Channel Marker "2" at the mouth of Turnagain Bay; and
- (B) within South River;
- (2) Cape Lookout, Carteret County:
  - (A) gill nets or seines shall not be used in the Atlantic Ocean within 300 feet of the Rock Jetty (at Cape Lookout between Power Squadron Spit and Cape Point); and
  - (B) seines shall not be used within one-half mile of the shore from Power Squadron Spit south to Cape Point and northward to Cape Lookout Lighthouse including the area inside the "hook" south of a line from the COLREGS Demarcation Line across Bardens Inlet to the eastern end of Shackleford Banks and then to the northern tip of Power Squadron Spit from 12:01 a.m. Saturdays until 12:01 a.m. Mondays from May 1 through November 30;
- (3) State parks and recreation areas:
  - (A) gill nets or seines shall not be used in the Atlantic Ocean within one-quarter mile of the shore at Fort Macon State Park, Carteret County;
  - (B) gill nets or seines shall not be used in the Atlantic Ocean within one-quarter mile of the shore at Hammocks Beach State Park, Onslow County, from May 1 through October 1, except strike nets and attended gill nets may be used beginning August 15; and
  - (C) gill nets or seines shall not be used within the boat basin and marked entrance channel at Carolina Beach State Park, New Hanover County;
- (4) mooring facilities and marinas: gill nets or seines shall not be used from May 1 through November 30 within:
  - (A) one-quarter mile of the shore from the east boundary fence to the west boundary fence at U.S. Coast Guard Base Fort Macon at Beaufort Inlet, Carteret County;
  - (B) canals within Pine Knoll Shores, Carteret County;
  - (C) Spooners Creek entrance channel and marina on Bogue Sound, Carteret County;
  - (D) Harbor Village Marina on Topsail Sound, Pender County; and
  - (E) marina and entrance canal within Carolina Marlin Club property adjacent to Newport River, Carteret County;
- (5) Masonboro Inlet: gill nets and seines shall not be used:
  - (A) within 300 feet of either rock jetty; and
  - (B) within the area beginning 300 feet from the offshore end of the jetties to the Intracoastal Waterway including all the waters of the inlet proper and all the waters of Shinn Creek;
- (6) Atlantic Ocean fishing piers: at a minimum, gill nets and seines shall not be used within 300 feet of ocean fishing piers when open to the public. If a larger closed area has been delineated by the placement of buoys or beach markers as authorized by G.S. 113-185(a), it shall be unlawful to fish from vessels or with nets within the larger marked zone;
- (7) Topsail Beach, Pender County: it shall be unlawful to use gill nets and seines from 4:00 p.m. Friday until 6:00 a.m. the following Monday in the three finger canals on the south end of Topsail Beach;
- (8) Mad Inlet to Tubbs Inlet - Atlantic Ocean, Brunswick County: it shall be unlawful to use gill nets and seines from September 1 through November 15, except that a maximum of four commercial gill nets per vessel not to exceed 200 yards in length individually or 800 yards in combination may be used; and
- (9) Spooners Creek, Carteret County: it shall be unlawful to use gill nets and seines between sunset and sunrise in Spooners Creek entrance channel in Bogue Sound, all of Spooners Creek proper, and the adjoining tributary canals and channels.

*History Note:* Authority G.S. 113-133; 113-134; 113-182; 143B-289.52;  
*Eff.* March 1, 1996;  
*Amended Eff.* October 1, 2004; August 1, 2004; April 1, 2001;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

#### **15A NCAC 03L .0207 HORSESHOE CRABS**

- (a) The annual (January through December) commercial quota for North Carolina for horseshoe crabs is established by the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab.
- (b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of horseshoe crabs to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab or to implement State management measures:
  - (1) specify time;
  - (2) specify area;
  - (3) specify means and methods;
  - (4) specify season;
  - (5) specify size; and
  - (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Temporary Adoption Eff.* August 1, 2000;  
*Codifier determined that findings did not meet criteria for temporary rule on October 31, 2000;*  
*Temporary Adoption Eff.* December 6, 2000;  
*Eff.* August 1, 2002;  
*Amended Eff.* April 1, 2011;  
*Readopted Eff.* April 1, 2022.

**15A NCAC 03L .0210 REPACKING OF FOREIGN CRAB MEAT PROHIBITED**

It shall be unlawful to repack foreign crab meat in North Carolina into another container. For the purpose of this Rule, "foreign" shall mean any place or location outside the United States. This Rule shall apply to all facilities and persons permitted in accordance with 15A NCAC 18A .0135. This Rule shall not apply to crab meat that has been transformed into another product, such as crab cakes or other value-added products.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03L .0301 AMERICAN LOBSTER (NORTHERN LOBSTER)**

- (a) It shall be unlawful to possess American lobster:
- (1) that has eggs or from which eggs have been artificially removed by any method;
  - (2) meats, detached meats, detached tails or claws, or any other part of a lobster that has been separated from the lobster;
  - (3) that has an outer shell which has been speared; or
  - (4) that is a V-notched female lobster. A V-notched female lobster is any female lobster that bears a notch or indentation in the base of the flipper that is at least as deep as 1/8 inch, with or without setal hairs. A V-notched female lobster is also any female lobster that is mutilated in a manner that would hide, obscure, or obliterate such a mark.

(b) The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of American lobster to maintain compliance with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster or to implement State management measures:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff.* January 1, 1991;  
*Amended Eff.* March 1, 1996;  
*Temporary Amendment Eff.* August 1, 2000;

*Amended Eff.* April 1, 2009; September 1, 2005; April 1, 2001;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03L .0302 SPINY LOBSTER**

The Fisheries Director may, by proclamation, impose any of the following restrictions on the taking of spiny lobster to maintain compliance with the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and the South Atlantic or to implement State management measures:

- (1) specify time;
- (2) specify area;
- (3) specify means and methods;
- (4) specify season;
- (5) specify size; and
- (6) specify quantity.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff.* January 1, 1991;  
*Amended Eff.* March 1, 1996;  
*Readopted Eff.* April 1, 2022.

**15A NCAC 03M .0301 SPANISH AND KING MACKEREL**

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
*Eff.* January 1, 1991;  
*Amended Eff.* March 1, 1996;  
*Temporary Amendment Eff.* January 1, 2000; July 1, 1999;  
*Amended Eff.* October 1, 2008; August 1, 2002; April 1, 2001;  
*Repealed Eff.* April 1, 2022.

**15A NCAC 03M .0302 PURSE GILL NET PROHIBITED**

It shall be unlawful to have a purse gill net on board a vessel when taking or landing Spanish or king mackerel.

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Eff.* January 1, 1991;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

**15A NCAC 03M .0511 BLUEFISH**

*History Note:* Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;  
*Eff.* March 1, 1994;  
*Amended Eff.* March 1, 1996;  
*Temporary Amendment Eff.* September 9, 1996;  
*Amended Eff.* April 1, 1997;  
*Temporary Amendment Eff.* July 1, 1999;  
*Amended Eff.* October 1, 2008; April 1, 2003; August 1, 2000;  
*Repealed Eff.* April 1, 2022.

**15A NCAC 03M .0516 COBIA**

*History Note:* Authority G.S. 113-134; 113-182; 143B-289.52;  
*Temporary Adoption Eff.* July 1, 1999;  
*Eff.* August 1, 2000;  
*Repealed Eff.* April 1, 2022.

**15A NCAC 03M .0519 SHAD**

It shall be unlawful to take or possess American shad from the Atlantic Ocean.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52;  
*Eff.* October 1, 2008;  
*Amended Eff.* April 1, 2012;  
*Readopted Eff.* (Pending legislative review pursuant to S.L. 2019-198).

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**15A NCAC 07H .1101 PURPOSE**

A permit for construction of bulkheads and riprap revetments under this Section shall allow the construction of bulkheads and riprap revetments for shoreline protection in the public trust waters and estuarine waters AECs subject to the procedures outlined in Subchapter 07J, Section .1100 and according to the Rules in this Section. This permit shall not apply to shoreline protection along the oceanfront or to waters and shorelines adjacent to the Ocean Hazard AEC with the exception of those shorelines that feature characteristics of the Estuarine Shoreline AEC. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than the adjoining Ocean Erodible Area.

*History Note:* Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; 113-229;  
*Eff.* March 1, 1984;  
*Amended Eff.* July 1, 2009; April 1, 2003;  
*Readopted Eff.* April 1, 2022.

**15A NCAC 07H .1102 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development.

(b) The applicant shall provide:

- (1) provide site location, dimensions of the project area, and the applicant's name and address, confirmation that the applicant has obtained a written statement, signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the applicant has notified adjacent riparian property owners by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide written comments on the proposed development to DCM within 10 days of receipt of the notice and indicate that no response shall

be interpreted as no objection. DCM shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM determines that the project exceeds the guidelines established by the General Permit process provided in 15A NCAC 07J .1100, DCM shall notify the applicant that an application for a major development permit shall be required.

(c) No work shall begin until an on-site meeting is held with the applicant and a DCM representative so that the proposed alignment may be marked. A General Permit to proceed with the proposed development shall be issued if the DCM representative finds that the application meets all the requirements of this Rule. Construction of the bulkhead or riprap revetment shall be completed within 120 days of the issuance of the general permit or the authorization shall expire and it shall be necessary to re-examine the structure alignment to determine if the general permit may be reissued.

*History Note:* Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; 113A-118; 113A-120; 113-229;  
*Eff.* March 1, 1984;  
*Amended Eff.* July 1, 2009; October 1, 2007; September 1, 2006; January 1, 1990; December 1, 1987;  
*Readopted Eff.* April 1, 2022.

**15A NCAC 07H .1103 PERMIT FEE**

The applicant shall pay a permit fee of two hundred dollars (\$200.00) for riprap revetments sited at or above normal high water or normal water level, or a permit fee of four hundred dollars (\$400.00) for riprap revetments sited below normal high water or normal water level. The applicant shall pay a permit fee of four hundred dollars (\$400.00) for bulkheads. Permit fees shall be paid by check or money order payable to the Department.

*History Note:* Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124; 113-229;  
*Eff.* March 1, 1984;  
*Amended Eff.* October 5, 2009; September 1, 2006; August 1, 2000; March 1, 1991;  
*Readopted Eff.* April 1, 2022.

**15A NCAC 07H .1104 GENERAL CONDITIONS**

(a) This permit authorizes only the construction of bulkheads and riprap revetments conforming to the standards in this Section.

(b) Individuals shall allow authorized representatives of the Department of Environmental Quality to make inspections at any time in order to ensure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed herein.

(c) There shall be no interference with the use of the waters by the public by the existence of the bulkhead or the riprap revetment authorized herein. Bulkheads and riprap revetments authorized in this Section shall not interfere with the established or traditional rights of navigation of the waters by the public.

(d) This permit shall not be applicable to proposed construction where the Division of Coastal Management has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.

(e) This permit shall not eliminate the need to obtain any other required State, local, or federal authorization.

(f) Development carried out under permit set forth in this Section shall be consistent with all State, federal, local requirements, and local land use plans current at the time of authorization.

Development carried out under the permit set forth in this Section shall be consistent with all State, federal, local requirements, and local land use plans current at the time of authorization.

*History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; 113-229;*

*Eff. March 1, 1984;*

*Amended Eff. May 1, 1990; December 1, 1987;*

*RRC Objection due to ambiguity Eff. May 19, 1994;*

*Amended Eff. July 1, 2009; August 1, 1998; July 1, 1994;*

*Readopted Eff. April 1, 2022.*

#### **15A NCAC 07H .1105 SPECIFIC CONDITIONS**

(a) Along shorelines void of wetland vegetation:

- (1) New bulkheads shall have an average approximation of normal high water or normal water level. The bulkhead position shall not exceed a distance of five feet waterward of normal high water or normal water level at any point along its alignment.
- (2) New bulkheads or riprap revetments on shorelines within manmade upland basins, canals, and ditches, shall be positioned so as not to exceed an average distance of two feet and maximum distance of five feet waterward of normal high water or normal water level.
- (3) When replacing an existing bulkhead, the new alignment shall be positioned so as not to exceed a maximum distance of two feet waterward of the current bulkhead alignment. To tie into a like structure on the adjacent property, replacement bulkhead position shall not exceed a maximum distance of five feet waterward of the current bulkhead alignment. When replacing a bulkhead where lands landward of the bulkhead were lost in the last year, bulkheads shall be positioned a maximum of two feet waterward of the original or existing alignment.
- (4) Riprap revetments shall be positioned so as not to exceed a maximum distance of 10 feet waterward of the normal high water or normal water level at any point along its alignment.

(b) Along shorelines with wetland vegetation, bulkheads and riprap revetments shall be positioned so that all construction is to be accomplished landward of such vegetation.

(c) Bulkheads shall be constructed of vinyl, steel sheet pile, concrete, stone, timber, or other materials approved by the Division of Coastal Management.

(d) Riprap revetments shall be constructed of granite, marl, concrete without exposed rebar, or other materials approved by the Division of Coastal Management.

(e) Revetment material shall be free from loose dirt or other materials not approved by the Division of Coastal Management.

(f) Revetment material shall be of size approved by the Division of Coastal Management to prevent movement of the material from the site by wave action or currents.

(g) Construction design for riprap revetments shall take into consideration the height of the area to be protected i.e., bulkhead height, escarpment height, water depth, and the alignment shall allow for a slope no flatter than three feet horizontal per one foot vertical and no steeper than 1½ feet horizontal per one foot vertical.

(h) All backfill material shall be obtained from an upland source pursuant to 15A NCAC 07H .0208. The bulkhead or riprap revetment shall be constructed prior to any backfilling activities and shall be structurally tight so as to prevent seepage of backfill materials through the structure.

(i) No excavation, grading or fill shall be permitted except for that which may be required for the construction of the bulkhead or riprap revetment. This permit shall not authorize any excavation waterward of the approved alignment.

(j) Runoff from construction shall not increase the amount of suspended sediments in adjacent waters. Sedimentation and erosion control devices, measures, or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property, e.g. silt fence, diversion swales or berms, sand fence, etc.

(k) If one contiguous acre or more of property is to be excavated or filled, an erosion and sedimentation control plan shall be filed with and approved by the Division of Energy, Mineral, and Land Resources, or local government having and a delegated program prior to commencing the land-disturbing activity.

(l) For the purposes of these Rules, the Atlantic Intracoastal Waterway (AIWW) is considered a natural shoreline.

(m) Construction authorized by this general permit shall be limited to a maximum shoreline length of 500 feet.

*History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124; 113-229;*

*Eff. March 1, 1984;*

*Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); July 1, 2009; April 1, 2005; December 1, 1991; January 1, 1989; December 1, 1987;*

*Readopted Eff. April 1, 2022.*

#### **15A NCAC 07H .1801 PURPOSE**

The general permit to allow beach bulldozing in the Ocean Hazard AEC will allow beach bulldozing needed to reconstruct or repair dune systems, including Primary Dunes and Frontal Dunes as defined in Rule .0305 of this Subchapter. For the purpose of this General Permit, "beach bulldozing" is defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to repair damage to frontal or primary dunes. This general permit is subject to the procedures outlined in

Subchapter 07J, Section .1100 and shall apply only to the Ocean Erodeable AEC. This general permit shall not apply to the Inlet Hazard AEC.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; Eff. December 1, 1987; Amended Eff. September 1, 2016; Readopted Eff. April 1, 2022.*

**15A NCAC 07H .1802 APPROVAL PROCEDURES**

(a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development.

(b) The applicant shall provide:

- (1) the site location, dimensions of the project area, and their name and address;
- (2) Confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (3) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting official to the Division of Coastal Management within 10 days of receipt of the notice and indicate that no response will be interpreted as no objection. Division staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If Division staff determines that the project exceeds the guidelines established by the General Permit process provided in 15A NCAC 07J .1100, Division staff shall notify the applicant that they must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and DCM representative. All bulldozing shall be completed within 30 days of the date of permit issuance.

*History Note: Authority G.S. 113-229(c1); 113-229(c2); 113A-107; 113A-113(b); 113A-118.1; 113A-120; Eff. December 1, 1987; Amended Eff. September 1, 2016; January 1, 1990; Readopted Eff. April 1, 2022.*

**15A NCAC 07H .1803 PERMIT FEE**

The applicant shall pay a permit fee of four hundred dollars (\$400.00) by check or money order payable to the Department.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; Eff. December 1, 1987; Amended Eff. September 1, 2006; August 1, 2000; March 1, 1991; Readopted Eff. April 1, 2022.*

**15A NCAC 07H .1804 GENERAL CONDITIONS**

(a) This General Permit shall not be applicable to proposed construction where the Division of Coastal Management has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights. If a shipwreck is unearthed, all work shall stop immediately and the Division of Coastal Management shall be contacted.

(b) This General Permit shall not eliminate the need to obtain any other required State, local, or federal authorization.

(c) Development carried out under a permit as set forth in this Section shall be consistent with all State, federal and local requirements, and local Land Use Plans in effect at the time of authorization.

*History Note: Authority G.S. 113-229(c1); 113A-102(b)(4)(e); 113A-107; 113A-113(b); 113A-118.1; Eff. December 1, 1987; Amended Eff. May 1, 1990; RRC Objection due to ambiguity Eff. May 19, 1994; Amended Eff. September 1, 2016; August 1, 1998; July 1, 1994; Readopted Eff. April 1, 2022.*

**15A NCAC 07H .1805 SPECIFIC CONDITIONS**

(a) The area where beach bulldozing is being performed shall maintain a slope that follows the pre-project slopes as closely as possible so as not to endanger the public or the public's use of the beach. The movement of material by a bulldozer, front-end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation.

(b) The activity shall not exceed the lateral bounds of the applicant's property without the written permission of the adjoining landowner(s).

(c) The permit shall not authorize movement of material from seaward of the mean low water line.

(d) Adding sand to dunes shall be accomplished in such a manner that, based on site specific conditions, the tools used, what vegetation is existing, and how much vegetation is buried, the damage to existing vegetation by burial is minimized. Upon completion of the project, the fill areas shall be replanted with native vegetation, such as Sea Oats (*Uniola paniculata*), or if outside the planting season, shall be stabilized with sand fencing until planting can occur.

(e) In order to minimize adverse impacts to nesting sea turtles, no bulldozing shall occur within the period of April 1 through November 15 of any year without the approval of the Division of Coastal Management, in coordination with the North Carolina Wildlife Resources Commission, the United States Fish and Wildlife Service, and the United States Army Corps of Engineers, that the work can be accomplished without significant adverse impact to sea turtle nests or suitable nesting habitat.

(f) If one contiguous acre or more of oceanfront property is to be excavated or filled, an erosion and sedimentation control plan shall be filed with and approved by the Division of Energy, Mineral, and Land Resources, or local government having

jurisdiction. This plan must be approved prior to commencing the land disturbing activity.

*History Note: Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; Eff. December 1, 1987; Temporary Amendment Eff. September 2, 1998; Amended Eff. September 1, 2016; August 1, 2012 (see S.L. 2012-143, s.1(f)); August 1, 2000; Readopted Eff. April 1, 2022.*

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#### **15A NCAC 18A .0134 DEFINITIONS**

The following definitions shall apply to this Section; however, nothing in this Section shall be construed as expanding or restricting the definitions in G.S. 106-129 and G.S. 106-130:

- (1) "Adulterated" as defined in G.S. 106-129 shall include the following:
  - (a) any cooked crustacea or crustacea meat that does not comply with the rules in this Section;
  - (b) any cooked crustacea or crustacea meat that exceeds the bacteriological standards in Rule .0182 of this Section; or
  - (c) any cooked crustacea or crustacea meat that has been deemed to be an imminent hazard.
- (2) "Clean" means free from dirt, debris, dust, marks, stains, waste materials, litter, or foreign material.
- (3) "Code date" means the date legibly placed on the container to indicate the date that the product was packed.
- (4) "Cook" means to prepare or treat raw crustacea by heating.
- (5) "Critical control point" means a point, step, or procedure in a food process at which a control can be applied and a food safety hazard can, as a result, be prevented, eliminated, or reduced to acceptable levels.
- (6) "Critical limit" means the maximum or minimum value to which a biological, chemical, or physical parameter shall be controlled at a critical control point to prevent, eliminate, or reduce to an acceptable level the occurrence of the identified food safety hazard.
- (7) "Crustacea meat" means the meat of crabs, lobster, shrimp, or crayfish.
- (8) "Division" means the Division of Marine Fisheries.
- (9) "Easily cleanable" has the same meaning as defined in the 2017 U.S. Food Code. This definition is incorporated by reference not including subsequent amendments and editions. A copy of the reference material can be found at <https://www.fda.gov/food/fda-food-code/food-code-2017>, at no cost.

- (10) "Food-contact surface" means the parts of equipment, including auxiliary equipment, that may be in contact with the food being processed, or that may drain into the portion of equipment with which food is in contact.
- (11) "Food safety hazard" means any biological, chemical, or physical property that may cause a food to be unsafe for human consumption.
- (12) "Foreign" means any place or location outside the United States.
- (13) "Fresh crustacea" means a live, raw, or frozen raw crab, lobster, shrimp, or crayfish that shows no decomposition.
- (14) "Good repair" means maintained in order to function as designed and without defect.
- (15) "HACCP plan" means a written document that delineates the procedures a dealer follows to implement food safety controls.
- (16) "Hazard analysis critical control point (HACCP)" means a system of inspection, control, and monitoring measures initiated by a dealer to identify microbiological, chemical, or physical food safety hazards that are likely to occur in shellfish products produced by the dealer.
- (17) "Imminent hazard" has the same meaning as defined in G.S. 130A-2.
- (18) "Internal temperature" means the temperature of the product as opposed to the ambient temperature.
- (19) "Misbranded" as defined in G.S. 106-130 shall include any container of cooked crustacea or crustacea meat that is not labeled in compliance with the rules in this Section.
- (20) "Most probable number (MPN)" means a statistical estimate of the number of bacteria per unit volume and is determined from the number of positive results in a series of fermentation tubes.
- (21) "Operating season" means the season of the year during which a crustacea product is processed.
- (22) "Pasteurization" means the process of heating every particle of crustacea meat in a hermetically-sealed container to a temperature of at least 185° F (85° C) and holding it continuously at or above this temperature for at least one minute at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report. The term includes any other process that has been found equally effective by the Division.
- (23) "Pasteurization date" means a code legibly placed on the container to indicate the date that the product was pasteurized.
- (24) "Process Validation Study Report" means a report of tests that shows a piece of equipment can produce time-temperature results as

- required by the rules of this Section, and the procedures required to achieve such results.
- (25) "Processing" means any of the following operations when carried out in conjunction with the cooking of crustacea or crustacea meat: receiving, refrigerating, air-cooling, picking, packing, repacking, thermal processing, or pasteurizing.
- (26) "Repacker" means a facility that repacks cooked crustacea meat into other containers.
- (27) "Responsible individual" means the individual present in a cooked crustacea facility who is the apparent supervisor of the cooked crustacea facility at the time of the inspection. If no individual is the apparent supervisor, then any employee is the responsible individual.
- (28) "Retort" means a pressure vessel used to cook raw crustacea.
- (29) "Sanitize" has the same meaning as defined in 21 CFR 110.3, which is incorporated by reference including subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-110/subpart-A/section-110.3>, at no cost.
- (30) "Thermal processing" means the heating of previously cooked crustacea or crustacea meat to a desired temperature for a specified time at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report.

*History Note:* Authority G.S. 106-129; 106-130; 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Amended Eff. August 1, 2000; August 1, 1998; February 1, 1997;*  
*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0136 APPLICABILITY OF RULES**

The rules in this Section shall apply to the operation of all facilities and persons permitted in Rule .0135 of this Section and all other businesses and persons that buy, sell, transport, or ship cooked crustacea or crustacea meat that has not been transformed into another product.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Amended Eff. April 1, 1997;*  
*Readopted Eff. (Pending legislative review of 15A NCAC 03L .0210).*

#### **15A NCAC 18A .0137 GENERAL REQUIREMENTS FOR OPERATION**

(a) During the operating season the processing portion of the facility shall be used for no purpose other than the processing of cooked crustacea or crustacea meat.

- (b) Retail sales of cooked crustacea or crustacea meat shall not be made from any processing portion of the facility.
- (c) Accurate records of all purchases and sales of crustacea and crustacea meat shall be maintained for one year. The records shall be available for inspection by the Division of Marine Fisheries.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Amended Eff. April 1, 1997.*  
*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0138 SUPERVISION**

- (a) The owner or responsible individual shall supervise the processing operation and be responsible for compliance with the rules of this Section, including compliance with personal hygiene requirements as set forth in Rule .0153 of this Section.
- (b) No unauthorized individuals shall be allowed in the facility during the periods of operation. For the purpose of this Rule, "unauthorized individual" shall mean an individual that is not designated and trained by the owner or responsible individual to perform specific processing tasks in the facility.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992.*  
*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0139 FACILITY FLOODING**

- (a) If the facility floors are flooded, processing shall be discontinued until flood waters have receded and the facility and equipment are cleaned and sanitized.
- (b) Any cooked crustacea or crustacea meat that may have been contaminated by flood waters shall be deemed adulterated and disposed of in accordance with G.S. 113-221.4 and Rule .0181 of this Section.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0144 INSECT CONTROL**

All outside openings shall be screened, provided with wind curtains, or be provided with other methods to eliminate the entrance of insects. All screens shall be kept in good repair. All outside doors shall open outward and shall be self-closing. The use and storage of pesticides shall comply with all applicable State and federal laws and rules.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992.*  
*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0145 RODENT AND ANIMAL CONTROL**

Measures shall be taken by the owner or responsible individual to keep animals, fowl, rodents, and other vermin out of the facility.

The storage and use of rodenticides shall comply with all applicable State and federal laws and rules.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0147 WATER SUPPLY**

- (a) The water supply used shall be in accordance with 15A NCAC 18A .1720 through .1728.
- (b) Water samples for bacteriological analysis shall be collected at least annually by the Division of Marine Fisheries and submitted for analysis to the State Laboratory of Public Health or other laboratory that is certified in accordance with 10A NCAC 42C .0102, which is incorporated by reference including subsequent amendments.
- (c) Cross-connections with unapproved water supplies are prohibited. Hot and cold running water under pressure shall be provided to food preparation, utensils, and handwashing areas and any other areas in which water is required for cleaning. Running water under pressure shall be provided in sufficient quantity to carry out all food preparation, utensil washing, hand washing, cleaning, and other water-using operations.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0148 ICE**

- (a) Ice shall be obtained from a water supply approved by the Division of Marine Fisheries pursuant to Rule .0147 of this Section and shall be stored and handled in a manner to prevent contamination and keep the ice clean.
- (b) All equipment used in the handling of ice shall be used for no other purpose and shall be cleaned and sanitized at least once each day the facility is in operation.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0149 PLUMBING**

- (a) Plumbing fixtures shall be located to facilitate the flow of processing activities and to prevent the splashing of water on food-contact surfaces or cooked crustacea and crustacea meat.
- (b) Fixtures, ducts, and pipes shall not be suspended over working areas.
- (c) Handwash lavatories shall be located so that the supervisor can observe that employees wash and sanitize their hands before beginning work and after each interruption.
- (d) Handwash lavatories shall be provided in the following locations:
  - (1) packing room or area;
  - (2) toilet or lounge area; and
  - (3) picking room.

- (e) At least one handwash lavatory shall be provided for every 20 employees among the first 100 employees and at least one handwash lavatory shall be provided for every 25 employees in excess of the first 100 employees.
- (f) Additional lavatories required by Paragraph (e) of this Rule shall be located in the picking room.
- (g) A container shall be located near each handwash lavatory in the picking room and packing room or area to sanitize hands in a solution containing at least 100 parts per million (ppm) of available chlorine or other equally effective bactericide. A testing method or equipment shall be available and used to test chemical sanitizers to ensure minimum prescribed strengths.
- (h) Soap and single service towels in protected dispensers shall be available near the handwash lavatories. Other hand drying devices that are found equally effective by the Division of Marine Fisheries may be used.
- (i) All pre-cool rooms, picking rooms, packing rooms or areas, and cooking areas shall be provided with hose bibs and wash down hoses. Storage racks shall be provided to keep the hoses elevated off the floor when not in use.
- (j) An automatically regulated hot-water system shall be provided to furnish a sufficient volume of hot water with a temperature of at least 130° F (54.5° C) to carry out all processing operations.
- (k) All handwash lavatories and sinks shall be equipped with mixing faucets.
- (l) A three-compartment sink with drainboards, large enough to wash the largest utensils used in the facility, shall be located in the picking room near the delivery shelf. One three-compartment sink, with drainboards, shall be provided for every 50 employees or fraction thereof.
- (m) The floor drains in coolers shall not be connected directly to a sewer in processing or repacking facilities constructed after October 1, 1992.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0151 TOILETS**

- (a) Toilets shall be provided by the owner or responsible person in the facility.
- (b) Toilet tissue shall be provided by the owner or responsible person in a holder.
- (c) Toilet room doors shall not open directly into processing areas of the facility and shall be self-closing.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0152 SOLID WASTE**

- (a) Cooked crustacea scrap and other putrescible wastes shall be removed from the premises at least daily. Other solid wastes shall be removed from the premises at least weekly.
- (b) Scrap containers shall be removed from the picking room immediately after filling and placed in storage areas approved by the Division of Marine Fisheries.



- (c) Scrap containers shall be non-corrosive and cleaned at least daily.
- (d) Scrap containers shall be cleaned in an area approved by the Division.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0153 PERSONAL HYGIENE**

- (a) All employees shall wash their hands with soap and running water before beginning work and again after each interruption. Signs to this effect shall be posted in visible places in the facility by the owner or responsible individual, such that the signs can be seen by employees.
- (b) All individuals handling cooked crustacea or crustacea meat shall sanitize their hands before beginning work and again after each interruption.
- (c) All individuals employed or engaged in the handling, picking, or packing of cooked crustacea or crustacea meat shall wear clean, washable outer clothing.
- (d) Employees shall not eat food, drink, or use tobacco in any form in the areas where cooked crustacea or crustacea meat are stored, processed, or handled.
- (e) Any individual known to be a carrier of any disease that can be transmitted through the handling of cooked crustacea or crustacea meat or who has an infected wound or open lesion on any exposed portion of the body shall be prohibited from handling cooked crustacea or crustacea meat.
- (f) Hair restraints shall be worn by all employees who handle cooked crustacea or crustacea meat.
- (g) The arms of employees who pick or pack cooked crustacea or crustacea meat shall be bare to the elbow or covered with an arm guard that is easily cleanable and capable of being sanitized.
- (h) Employees who pick and pack cooked crustacea or crustacea meat shall have clean fingernails free from nail polish and that are short enough to not extend past the fingertips. Employees shall not wear jewelry other than easily cleanable rings. The use of absorbent wraps or absorbent finger cots shall not be permitted.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0156 EQUIPMENT AND UTENSIL CONSTRUCTION**

All processing equipment and utensils shall be smooth, easily cleanable, durable, and kept in good repair. The food-contact surfaces of equipment, utensils, and processing machinery shall be accessible for cleaning, non-toxic, non-corrosive, non-absorbent, and free of open seams.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0157 FACILITY AND EQUIPMENT SANITATION**

- (a) The walls and floors in the picking and packing areas shall be kept clean while operating and shall be sanitized at least daily and whenever there is evidence of contamination, such as splatter of crustacea meat or juices.
- (b) All food-contact surfaces shall be washed, rinsed, and sanitized prior to starting operation each day and whenever there is evidence of contamination, such as splatter of crustacea meat or juices.
- (c) Reusable picking containers and knives shall be washed, rinsed, and sanitized each time crustacea meat is delivered to the packing room.
- (d) Sanitizing methods shall be as follows:
  - (1) by steam in a steam chamber or box equipped with an indicating thermometer located in the coldest zone, with exposure to a temperature of 170° F (77° C) for at least 15 minutes or to a temperature of 200° F (93° C) for at least five minutes.
  - (2) by immersion for at least one minute in the third compartment in clean hot water at a temperature of at least 170° F (77° C). A thermometer accurate to 3° F (1.5° C) shall be available to the compartment. Where hot water is used for bactericidal treatment, a booster heater that maintains a water temperature of at least 170° F (77° C) in the third compartment at all times when utensils are being washed shall be provided. The heating device may be integral with the immersion compartment.
  - (3) by immersion for at least one minute in, or exposure for at least one minute to a constant flow of, a solution containing not less than 100 ppm chlorine residual. Utensils and equipment that have to be washed in place shall be washed, rinsed, and sanitized.
  - (4) by other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing solutions", which is hereby incorporated by reference including any subsequent amendments and editions. A copy of the reference material can be found at [https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178\\_1010](https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=17d119b223f9451322279713caa2e6ab&ty=HTML&h=L&mc=true&n=pt21.3.178&r=PART#se21.3.178_1010), at no cost. A testing method or equipment shall be available and used to test chemical sanitizers to ensure minimum prescribed strengths.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0158 EQUIPMENT STORAGE**

Equipment and utensils that have been cleaned and sanitized shall be stored in a manner to protect against contamination and keep the equipment and utensils clean.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0161 CRUSTACEA COOKING**

(a) The cooking area or room shall be under a roof located between the area for receiving raw crustacea and the air-cool room and shall be vented to assure the removal of steam.

(b) Crustacea shall be cooked in accordance with the following:

- (1) Crabs shall be cooked under steam pressure until the internal temperature of the center-most crab reaches 235° F (112.8° C). Temperature shall be measured with an accurate, indicating thermometer having a range of 170-270° F (77-132° C).
- (2) Other crustacea shall be cooked until the internal temperature of the center-most crustacean reaches 180° F (83° C) and is held at this temperature for one minute. Temperature shall be measured with an accurate, indicating thermometer. Crayfish shall be culled and cleaned prior to cooking.
- (3) Nothing in this Rule shall prohibit any other cooking process that has been found equally effective and approved by the Division of Marine Fisheries.

(c) The retort shall be constructed to permit a working pressure of at least 20 pounds per square inch (psig). Steam inlet and venting shall provide a uniform and complete distribution of steam. Venting shall be sufficient to permit complete elimination of air from the retort. Drains and vents shall be located at least two feet above mean high tide.

(d) The retorts shall be equipped with:

- (1) an accurate, indicating thermometer with a range that will include 170-270° F (77-132° C) and located with the sensor extending into the heat chamber;
- (2) an operating pressure indicator, at least three inches in diameter, with a 0-30 psig range and located adjacent to the indicating thermometer; and
- (3) a safety valve operational at 18-30 psig, located in the upper portion of the retort, protected from tampering, and designed to prevent injury to the operator.

(e) The boiler shall be of such capacity as to maintain 45 to 100 psig during cooking. The steam line from the boiler to the retort shall be at least one and one-fourth inch inside diameter.

(f) Overhead hoists shall be equipped with chain bags or other means of preventing foreign material from falling onto the cooked product.

(g) Retort cooking baskets shall be of stainless steel or equally impervious, non-corrosive material, and shall be designed to

allow for equal steam disbursement, ease of handling, dumping, and cleaning.

(h) All construction or replacement of retorts after October 1, 1992 shall be "flow-through" type and open directly into the air-cool room or a protected passageway into the air-cool room.

(i) All construction of new or replacement retorts shall require a Process Validation Study Report approved by the Division prior to use based upon documentation of the ability to produce time-temperature results as required by the rules of this Section.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0162 COOKED CRUSTACEA AIR-COOL**

(a) Cooked crustacea, after removal from the retort, shall be moved immediately to the cooked crustacea air-cool area to be air cooled to ambient temperature without being disturbed. Cooked crustacea shall be stored in the original cooking basket.

(b) The construction and arrangement of the air-cool room shall be designed to provide protection from contamination of the cooked crustacea. The air-cool room shall open directly into the cooked crustacea cooler or other protected area.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0164 COOKED CRUSTACEA PICKING**

(a) The picking operation shall be conducted in accordance with the rules of this Section such that crustacea meat does not become adulterated.

(b) All cooked crustacea shall be picked before a new supply is delivered to the picking table.

(c) Picked crustacea meat shall be delivered to the packing room at least every 90 minutes or upon the accumulation of five pounds per picker, whichever is sooner.

(d) Paper towels used at the picking table shall be discarded after initial use.

(e) If provided, bactericidal solutions at picking tables shall be maintained at 100 ppm chlorine solution or an equivalent bactericidal solution. A testing method or equipment shall be available and used to ensure minimum prescribed strengths of the chlorine solution or equivalent bactericidal solution.

(f) Handles of picking knives shall not be covered with any material.

(g) Crustacea shall be cooked and picked in the same permitted facility unless a written plan for interfacility shipment has been filed with the Division. The plan shall address and be approved based on the following:

- (1) time-temperature requirements;
- (2) shipping destination;
- (3) handling;
- (4) labeling;
- (5) records;

- (6) processing;
- (7) sanitation; and
- (8) HACCP plan.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Temporary Amendment Eff. July 1, 2000;*

*Temporary Rule Expired on March 12, 2001;*

*Amended Eff. August 1, 2002;*

*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0165 PACKING**

- (a) Crustacea meat shall be packed in a container and iced and cooled to an internal temperature of 40° F (4.4° C) or below within two hours of receipt in the packing room.
- (b) The storage of ice in the packing room shall be in an easily cleanable, non-corrosive, non-toxic container.
- (c) Blending or combining of any of the following shall be prohibited:
  - (1) fresh crustacea meat;
  - (2) frozen crustacea meat;
  - (3) pasteurized crustacea meat; and
  - (4) crustacea meat packed in another facility.
- (d) Clean shipping containers shall be provided by the owner or responsible individual for storing and shipping of packed crustacea meat.
- (e) The return of overage of crustacea meat to a picker shall be prohibited.
- (f) Washing of picked crustacea meat shall be under running potable water. The crustacea meat shall be drained prior to packing.
- (g) Any substance added to cooked crustacea or crustacea meat shall be approved for use by the U.S. Food and Drug Administration and labeled according to federal and State rules and regulations.
- (h) Only those individuals responsible for packing the crustacea or crustacea meat shall be allowed in the packing room or area.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0166 PICKED CRUSTACEA MEAT REFRIGERATION**

- (a) The refrigeration room or ice box shall be of sufficient size so that a full day's production, with ice, can be stored such that the crustacea meat does not become adulterated. The refrigeration room or ice box shall be equipped with an accurate, operating thermometer.
- (b) Ice boxes shall be easily cleanable, non-corrosive, and non-toxic with an impervious lining and a drain.
- (c) Picked crustacea meat shall be stored at 40° F (4.4° C) or below.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0168 SINGLE-SERVICE CONTAINERS**

- (a) Single-service containers used for packing or repacking cooked crustacea and crustacea meat shall be made from food-safe materials approved by the United States Food and Drug Administration.
- (b) Containers shall not be reused for packing or repacking cooked crustacea and crustacea meat.
- (c) No person shall use containers bearing a permit number other than the number assigned to the facility.
- (d) Each container or lid shall be legibly impressed, embossed, or lithographed with the name and address of the original packer, repacker, or distributor. The original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed, or lithographed on each container or lid.
- (e) Each container or lid shall be permanently and legibly identified with a code date.
- (f) All containers and lids shall be stored and handled in a manner to prevent contamination and keep them clean, sanitized by a procedure as stated in Rule .0157 of this Section, and drained prior to filling.
- (g) All containers shall be sealed so that tampering can be detected. The words "Sealed For Your Protection" or equivalent shall be legibly displayed on the container or lid.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. October 1, 1992;*

*Amended Eff. August 1, 1998; February 1, 1997;*

*Readopted Eff. April 1, 2022.*

#### **15A NCAC 18A .0173 REPACKING**

- (a) Crustacea meat for repacking that is processed in North Carolina shall comply with Rules .0134 through .0187 of this Section. Crustacea meat for repacking that is processed outside of North Carolina shall comply with Rule .0182 of this Section.
- (b) Upon request of the Division of Marine Fisheries, the repacker shall provide the Division a current written list of all sources of crustacea meat used for repacking.
- (c) Repacking of crustacea meat:
  - (1) Crustacea meat shall not exceed 40° F (4.4° C) during the repacking process.
  - (2) Repacking shall be conducted separately by time or space from the routine crustacea meat picking and packing process.
  - (3) The food contact surfaces and utensils utilized in the repacking process shall be cleaned and sanitized prior to repacking and thereafter on 30-minute intervals during repacking.
  - (4) Repacked crustacea meat shall be maintained at or below 40° F (4.4° C).
  - (5) Blending or combining of any of the following shall be prohibited:
    - (A) fresh crustacea meat.
    - (B) frozen crustacea meat.
    - (C) pasteurized crustacea meat.

- (D) crustacea meat packed in another facility.
- (6) Crustacea meat shall not be repacked more than one time.
- (7) All empty containers from which crustacea meat was removed and repacked shall be rendered unusable.
- (d) Labeling of repacked crustacea meat:
  - (1) Each container shall be legibly embossed, impressed, or lithographed with the repacker's or the distributor's name and address.
  - (2) Each container shall be legibly embossed, impressed, or lithographed with the repacker's certification number followed by the letters "RP."
  - (3) Each container shall be permanently and legibly identified with a code indicating the repack date.
  - (4) Each container shall be sealed so that tampering can be detected.
  - (5) Each container of foreign crustacea meat that has been repacked outside of North Carolina and shipped into North Carolina shall be labeled in accordance with federal labeling requirements.
- (e) Records shall be kept for all purchases of crustacea meat for repacking and sales of repacked meat for one year. The records shall be available for inspection by the Division.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*  
*Eff. October 1, 1992;*  
*Amended Eff. August 1, 2002; April 1, 1997;*  
*Readopted Eff. (Pending legislative review of 15A NCAC 03L .0210).*

**15A NCAC 18A .0174 PASTEURIZATION PROCESS CONTROLS - THERMOMETERS**

- (a) All pasteurizing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the water bath. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.
- (b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the pasteurizing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.
- (c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).
- (d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F

- (71° C) and 200° F (93° C). The thermometer shall be protected against damage.
- (e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.
- (f) The pasteurization unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart, and an inked record being made of the operating time-temperature cycle. Falsification of a thermometer chart by an individual with access to or that is an operator of a pasteurization unit shall constitute failure to comply with the requirements of this Paragraph. A permanent file of the used thermometer charts shall be maintained by the pasteurizer and kept available for inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded within the confines of the pen markings after the pasteurization cycle has been completed:
  - (1) date of pasteurization;
  - (2) quantity of each batch pasteurized (pounds of crustacea meat or number and size of containers);
  - (3) processor's code of each pack;
  - (4) if the pasteurizer processes crustacea meat for someone else, then the packer's name, address, and permit number shall be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat;
  - (5) notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the pasteurizing cycle;
  - (6) after the temperature in the water bath has been reached and during the holding time, as set forth in Rule .0176 of this Section, the reading of the indicating thermometer and the time of reading shall be recorded on the chart; and
  - (7) signature of the pasteurizer operator.
- (g) A constant flow steam control valve is required, if steam is used as a source of heat.
- (h) The water bath shall be provided with effective agitation to maintain a uniform temperature.
- (i) Other technologies shall be approved by the Division if they are shown to provide equivalent data, information, and records as required in this Rule.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;*  
*Eff. October 1, 1992;*  
*Amended Eff. April 1, 1997;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0175 PREPARATION OF CRUSTACEA MEAT FOR PASTEURIZATION**

The preparation of crustacea meat for pasteurization shall be in compliance with the following:

- (1) crustacea meat shall be prepared in compliance with Rules .0134 through .0183 of this Section;
- (2) the containers of crustacea meat shall be sealed as quickly as possible after the crustacea meat is picked; and
- (3) the sealed containers of crustacea meat shall be placed in ice and refrigerated immediately after sealing until pasteurized.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Amended Eff. April 1, 1997;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0176 PASTEURIZATION OF CRUSTACEA MEAT**

(a) All pasteurization operations shall require a Process Validation Study Report approved by the Division of Marine Fisheries prior to operation based upon documentation of the ability to produce time-temperature results as required by the rules of this Section.

(b) The pasteurization of crustacea meat shall be conducted in compliance with the following procedures:

- (1) the minimum pasteurization specifications shall be heating every particle of crustacea meat in a hermetically-sealed container to a temperature of at least 185° F (85° C) and holding it continuously at or above this temperature for at least one minute at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report. A copy of the procedures for operating the pasteurizing equipment shall be posted adjacent to the pasteurization vat. The pasteurizer shall keep the report on file and shall provide the Division a copy of such report;
- (2) alteration of the equipment or loading of containers shall require a new Process Validation Study Report;
- (3) the containers of crustacea meat shall be cooled to 50° F (10° C) or below within three hours of the completion of pasteurization; and
- (4) refrigerated storage shall be provided for the cooled crustacea meat and shall maintain a storage temperature at or below 38° F (3.3° C).

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Amended Eff. August 1, 1998;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0177 LABELING OF PASTEURIZED CRUSTACEA MEAT**

Labeling of pasteurized crustacea meat shall be in compliance with the following:

- (1) the label used shall legibly identify the contents of the container as pasteurized crustacea meat;

- (2) each container shall be permanently and legibly identified with a code indicating the batch and day of processing;
- (3) the words "Perishable-Keep Under Refrigeration" or equivalent shall be legibly displayed on the container; and
- (4) the original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed, or lithographed on each container. Each container shall be legibly impressed, embossed, or lithographed with the name and address of the original packer, repacker, or distributor.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0178 INTERFACILITY PASTEURIZATION PROCEDURES**

No person shall initiate interfacility pasteurization of crustacea meat without prior written approval by the Division of Marine Fisheries. Interfacility pasteurization of crustacea meat shall be in compliance with the following:

- (1) crustacea meat shall be packed, labeled, and refrigerated in compliance with Rules .0134 and .0136 through .0182 of this Section and shall originate only from a facility permitted in accordance with Rule .0135 of this Section. Records shall be maintained to identify each batch of crustacea meat pasteurized;
- (2) crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature of 40° F (4.4° C) or below; and
- (3) crustacea meat shall be pasteurized in compliance with Rules .0175 through .0177 of this Section. The pasteurizer shall provide a copy of each pasteurization chart to the original packer.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
*Eff. October 1, 1992;*  
*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0181 EMBARGO OR DISPOSAL OF COOKED CRUSTACEA OR CRUSTACEA MEAT**

(a) When it has been determined by the Division of Marine Fisheries that cooked crustacea or crustacea meat have not been stored, transported, handled, cooked, picked, packed, or offered for sale in compliance with this Section, the cooked crustacea or crustacea meat shall be deemed adulterated.

(b) Cooked crustacea or crustacea meat determined to be adulterated or misbranded shall be subject to embargo or disposal by the Division in accordance with G.S. 113-221.4.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 113-221.4, 143B-289.52;

*Eff. October 1, 1992;  
Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0182 BACTERIOLOGICAL AND CONTAMINATION STANDARDS**

- (a) Cooked crustacea or crustacea meat shall not exceed *Escherichia coli* Most Probable Number (MPN) of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
- (b) Pasteurized crustacea meat shall contain no *Escherichia coli* or fecal coliform. Samples of pasteurized crustacea meat, taken within 24 hours of pasteurizing, shall not have a standard plate count of more than 3,000 per gram.
- (c) Thermally processed crustacea or crustacea meat shall not exceed *Escherichia coli* MPN of 36 per 100 grams of sample or exceed a standard plate count of 100,000 per gram.
- (d) Cooked crustacea or crustacea meat shall be handled in accordance with the rules of this Section.
- (e) Cooked crustacea or crustacea meat not complying with the standards set forth in this Rule may be deemed adulterated by the Division of Marine Fisheries according to the severity of exceedance and the expected threat to public health.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
Eff. October 1, 1992;  
Amended Eff. August 1, 1998; February 1, 1997;  
Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0183 ALTERNATIVE LABELING**

A durable label, such that it will not fade or deteriorate, that is permanently affixed to the container may be used to meet any labeling requirement in this Section.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
Eff. August 1, 1998;  
Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0184 THERMAL PROCESSING CONTROLS - THERMOMETERS**

- (a) All thermal processing equipment shall have a time-temperature recording thermometer with a temperature controller (combined or separately) and an indicating thermometer. The thermometers shall be located to give a true representation of the operating temperature of the process. The recording thermometer chart shall be at least a 12-hour chart and at least 10 inches in diameter.
- (b) The recording thermometer shall be installed so that it will be protected from vibration and from striking by loading operations or facility traffic. The thermometer mechanism shall be protected from moisture under prevailing conditions. The thermometer case shall not be opened during the thermal processing cycle, except for temperature check or for emergency or repair. A record shall be made when the thermometer case has been opened.
- (c) The recording thermometer shall have a range of at least 120-220° F (48.9-104.4° C). It shall be accurate within plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The chart

shall be scaled at a maximum of 2° F intervals in the range of 160° F (71° C) and 200° F (93° C).

(d) The indicating thermometer shall be a thermometer with an accuracy and readability of plus or minus 1° F between 160° F (71° C) and 200° F (93° C). The thermometer shall be protected against damage.

(e) The recording thermometer shall be equipped with a spring-operated or electrically operated clock. The recorded elapsed time as indicated by the chart rotation shall not exceed the true elapsed time as shown by an accurate watch. The rotating chart support shall be provided with pins upon which the chart shall be affixed by puncturing the chart.

(f) The thermal processing unit shall not be operated without a recording thermometer chart in place, the pen in contact with the chart, and an inked record being made of the operating time-temperature cycle. Falsification of a thermometer chart by an individual with access to or that is an operator of a thermal processing unit shall constitute failure to comply with the requirements of this Paragraph. A permanent file of the used thermometer charts shall be maintained by the thermal processor and kept available for inspection by the Division of Marine Fisheries for a period of one year. The following information shall be recorded within the confines of the pen markings after the thermal processing cycle has been completed:

- (1) date of thermal processing;
- (2) quantity of each batch thermally processed (pounds of crustacea meat or number and size of containers);
- (3) thermal processor's code of each pack;
- (4) if the thermal processor processes crustacea meat for someone else, then the packer's name, address, and permit number shall be recorded. A copy of the recording chart shall be provided to the owner of the crustacea meat;
- (5) notation of mechanical or power failure or opening of the recording thermometer case for adjustment or repair during the thermal processing cycle;
- (6) after the temperature in the thermal process has been reached and during the holding time, as set forth in Rule .0185 of this Section, the reading of the indicating thermometer and the time of reading shall be recorded on the chart; and
- (7) signature of the thermal process operator.

(g) A constant flow steam control valve is required, if steam is used as a source of heat.

(h) The thermal processing unit shall be provided with effective and uniform temperature.

(i) Other technologies shall be approved by the Division if they are shown to provide equivalent data, information, and records as required in this Rule.

*History Note: Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;  
Eff. April 1, 1997;  
Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0185 THERMAL PROCESSING OF CRUSTACEA AND CRUSTACEA MEAT**

(a) All thermal processing operations shall require a Process Validation Study Report approved by the Division of Marine Fisheries prior to operation based upon documentation of the ability to produce time-temperature results as required by the rules of this Section.

(b) The thermal processing of crustacea or crustacea meat shall be conducted in compliance with the following procedures:

- (1) the minimum thermal processing specifications shall be the heating of previously cooked crustacea or crustacea meat to a desired temperature for a specified time at the geometric center of a container in equipment being operated in compliance with the Process Validation Study Report. A copy of the procedures for operating the thermal processing equipment shall be posted adjacent to the thermal processing unit. The thermal processor shall keep the report on file and shall provide the Division a copy of such report;
- (2) alteration of the equipment or loading of containers shall require a new Process Validation Study Report;
- (3) the containers of crustacea or crustacea meat shall be cooled to 50° F (10° C) or below within three hours of the completion of the thermal process; and
- (4) refrigerated storage shall be provided for the cooled crustacea or crustacea meat and shall maintain a storage temperature at or below 36° F (2.2° C).

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. August 1, 1998;*

*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0186 LABELING OF THERMALLY PROCESSED CRUSTACEA OR CRUSTACEA MEAT**

Labeling of thermally processed crustacea or crustacea meat shall be in compliance with the following:

- (1) the label used shall legibly identify the contents of the container as thermally processed crustacea or crustacea meat;
- (2) each container shall be permanently and legibly identified with a code indicating the batch and day of processing;
- (3) the words "Perishable-Keep Under Refrigeration" or equivalent shall be legibly displayed on the container; and
- (4) the original packer's or repacker's permit number preceded by the state abbreviation shall be legibly impressed, embossed, or lithographed on each container. Each container shall be legibly impressed, embossed, or lithographed with the name and address of the original packer, repacker, or distributor.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. April 1, 1997;*

*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0187 INTERFACILITY THERMAL PROCESSING PROCEDURES**

Interfacility thermal processing of crustacea or crustacea meat shall be in compliance with the following:

- (1) crustacea or crustacea meat shall be packed, labeled, and refrigerated in compliance with Rules .0134 through .0187 of this Section. Records shall be maintained to identify each batch of crustacea or crustacea meat thermally processed;
- (2) crustacea or crustacea meat shall be shipped in an enclosed, easily cleanable vehicle at a temperature of 40° F (4.4° C) or below; and
- (3) crustacea or crustacea meat shall be thermally processed in compliance with Rules .0184 through .0187 of this Section. The thermal processor shall provide a copy of each thermal processing chart to the original packer.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. August 1, 1998;*

*Readopted Eff. April 1, 2022.*

**15A NCAC 18A .0191 MONITORING RECORDS**

Monitoring records of critical control points and the eight key sanitation items shall be recorded, as specified in the HACCP Plan, and signed and dated when recorded. The eight key sanitation items are set forth in 21 CFR 123.11 "Sanitation Control Procedures", which is incorporated by reference including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-123/subpart-A/section-123.11>, at no cost. The records shall be reviewed by the owner or designee within one week of recording.

*History Note:* Authority G.S. 113-134; 113-182; 113-221.2; 143B-289.52;

*Eff. August 1, 2000;*

*Readopted Eff. April 1, 2022.*

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS****CHAPTER 06 – BOARD OF BARBER EXAMINERS****21 NCAC 06F .0101 PHYSICAL STRUCTURE**

(a) For the purpose of this Rule, "practical area" means the area of the school where barbering services are provided.

(b) The physical structure of barber schools in North Carolina shall conform to the following criteria:

- (1) be a minimum of 14 linear feet wide;

- (2) be equipped with a minimum of five barber chairs for barber schools within jail or prison facilities or 10 barber chairs for all other schools, and these chairs shall meet the sanitary conditions required by G.S. 86A-15(a)(2);
- (3) have a minimum of 896 square feet in the practical area;
- (4) have an additional 70 square feet in the practical area for each additional barber chair over 10 chairs;
- (5) have at least five linear feet of space between each chair, center to center;
- (6) have no more than two students enrolled per barber chair;
- (7) be equipped with toilet facilities with hand-washing sink or basin;
- (8) have concrete or wood floors covered with smooth, nonporous materials;
- (9) have instructional materials, such as blackboard space or slide programs;
- (10) have a workstand, with a mounted mirror with minimum dimensions of 36 inches tall and 20 inches wide, for each barber chair in the practical area, constructed of material that can be washed and cleansed;
- (11) have the solutions and containers required by G.S. 86A-15(a)(2)(a) located at the workstand identified in Subparagraph (b)(10) of this Rule;
- (12) have a tool cabinet for each barber chair, with a door to limit exposure of the tools to the open air;
- (13) have a towel cabinet, or other method of storage, so that clean towels are stored separate from used towels;
- (14) have at least one functional sink or lavatory, with hot and cold water, for each two barber chairs, located within seven unobstructed linear feet of each barber chair. This sink distance requirement does not apply to schools permitted on or before September 1, 2009;
- (15) have the school separate from any other place or type of business, except for a business allowed by G.S. 86A-15(a)(1)(b), by a wall of ceiling height;
- (16) have a classroom area, separate from the practical area, with desk chairs sufficient to serve the number of students enrolled, and a desk and chair for the instructors;
- (17) have a means for electronic recordation of student hours;
- (18) have a sign displayed in each practical area of the school stating that all barbering services are performed by students; and
- (19) have a bulletin board hanging in each classroom area with a posting of the rules in this Subchapter and the minimum school curricula as set forth in 21 NCAC 06F .0120.

This Paragraph applies to barber schools permitted on or after December 1, 1994 or which undergo structural renovations after that date, except as specified in Paragraph (b)(14) of this Rule.

(c) All barber schools seeking a new permit shall receive a satisfactory building inspection by the jurisdiction having authority prior to obtaining a shop inspection pursuant to 21 NCAC 06L .0105.

*History Note:* Authority G.S. 86A-5; 86A-13; 86A-15; 86A-22;

*Eff. February 1, 1976;*

*Readopted Eff. February 8, 1978;*

*Amended Eff. September 1, 2013; October 1, 2009; June 1, 2008; December 1, 1994; May 1, 1989;*

*Readopted Eff. July 1, 2016;*

*Amended Eff. April 1, 2022; August 1, 2018.*

## **21 NCAC 06L .0103 EQUIPMENT**

(a) Each barber shall have a cabinet for barbering equipment. The cabinets shall be constructed of material that may be cleaned.

(b) Each shop shall have smooth finished walls and floors.

(c) Each barber chair shall be covered with a smooth, non-porous surface, such as vinyl or leather, which is easily cleaned as required by G.S. 86A-15(a)(2)(c).

(d) Each shop shall have within the shop or building functioning toilet facilities for employees and patrons.

(e) Each barber shop shall have a cabinet, or other method of storage, such that clean towels are stored separate from used towels.

(f) In addition to the requirements of Paragraph (d) of this Rule, barber shops that are permitted on or after January 1, 1995 or undergo structural renovations after that date, shall have within the shop or building a hand-washing sink or lavatory for patrons with hot and cold water, soap, and disposable towels.

(g) Where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art Examiners, the toilet facility and sink may be shared with the cosmetology shop.

(h) Paragraphs (a), (d), and (f) of this Rule do not apply to barber shops operated by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.

(i) All equipment and tools used in the practice of barbering as set forth in G.S. 86A-2 shall be suitable for the safe cutting of hair and shall be maintained in a sanitary and good operating condition as required by G.S. 86A-15(a)(2).

(j) The solutions and containers required by G.S. 86A-15(a)(2)(a) shall be located at the backstand identified in Rule .0102(b) of this Subchapter.

*History Note:* Authority G.S. 86A-5; 86A-13; 86A-15;

*Eff. February 1, 1976;*

*Readopted Eff. February 8, 1978;*

*Amended Eff. September 1, 2013; September 1, 2009; June 1, 2008; January 1, 1995; May 1, 1989; March 1, 1983;*

*Readopted Eff. July 1, 2016;*

*Amended Eff. April 1, 2022; April 1, 2018.*



**21 NCAC 06L .0103 EQUIPMENT**

- (a) Each barber shall have a cabinet for barbering equipment. The cabinets shall be constructed of material that may be cleaned.
- (b) Each shop shall have smooth finished walls and floors.
- (c) Each barber chair shall be covered with a smooth, non-porous surface, such as vinyl or leather, which is easily cleaned as required by G.S. 86A-15(a)(2)(c).
- (d) Each shop shall have within the shop or building functioning toilet facilities for employees and patrons.
- (e) Each barber shop shall have a cabinet, or other method of storage, such that clean towels are stored separate from used towels.
- (f) In addition to the requirements of Paragraph (d) of this Rule, barber shops that are permitted on or after January 1, 1995 or undergo structural renovations after that date, shall have within the shop or building a hand-washing sink or lavatory for patrons with hot and cold water, soap, and disposable towels.
- (g) Where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art Examiners, the toilet facility and sink may be shared with the cosmetology shop.
- (h) Paragraphs (a), (d), and (f) of this Rule do not apply to barber shops operated by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.
- (i) All equipment and tools used in the practice of barbering as set forth in G.S. 86A-2 shall be suitable for the safe cutting of hair and shall be maintained in a sanitary and good operating condition as required by G.S. 86A-15(a)(2).
- (j) The solutions and containers required by G.S. 86A-15(a)(2)(a) shall be located at the backstand identified in Rule .0102(b) of this Subchapter.

*History Note: Authority G.S. 86A-5; 86A-13; 86A-15; Eff. February 1, 1976; Readopted Eff. February 8, 1978; Amended Eff. September 1, 2013; September 1, 2009; June 1, 2008; January 1, 1995; May 1, 1989; March 1, 1983; Readopted Eff. July 1, 2016; Amended Eff. April 1, 2022; April 1, 2018.*

**21 NCAC 06L .0118 SANITARY RATINGS AND POSTING OF RATINGS**

- (a) The sanitary rating of a barber shop shall be based on a system of grading outlined in 21 NCAC 06L .0119. Based on the grading, all establishments shall be rated in the following manner:
  - (1) all establishments receiving a sanitary rating of at least 90 percent shall be awarded a grade A;
  - (2) all establishments receiving a sanitary rating of at least 80 percent, and less than 90 percent, shall be awarded a grade B; and
  - (3) a sanitary rating of less than 80 percent shall be awarded a failing grade.
- (b) Every barber shop shall be given a sanitary rating.
- (c) The sanitary rating of A, B, or failing given to a barber shop establishment shall be posted in a conspicuous place, defined as a place easily seen by the public at the front of the shop, at all times.
- (d) No newly established barber shop shall be permitted to operate without first having obtained a sanitary rating card with a grade of not less than 80 percent.

- (e) Barber inspectors shall give each barber shop a new sanitary rating card at the time of inspection.

*History Note: Authority G.S. 86A-5; 86A-15; Eff. June 1, 2008; Amended Eff. September 1, 2013; Readopted Eff. October 1, 2016; Amended Eff. April 1, 2022.*

**21 NCAC 06N .0101 FEES, ACCESS TO FORMS, AND RENEWALS**

- (a) The Board charges the following amounts for the fees authorized by G.S. 86A-25:

- (1) Certificate of registration or renewal as a barber \$50.00
- (2) Certificate of registration or renewal as an apprentice barber \$50.00
- (3) Barbershop permit or renewal \$50.00
- (4) Examination to become a registered barber \$85.00
- (5) Examination to become a registered apprentice barber \$85.00
- (6) Late fee for restoration of an expired barber certificate within first year after expiration \$35.00
- (7) Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration \$70.00
- (8) Late fee for restoration of an expired apprentice certificate within the first year after expiration \$35.00
- (9) Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate \$45.00
- (10) Late fee for restoration of an expired barber shop certificate \$45.00
- (11) Examination to become a barber school instructor \$165.00
- (12) Student permit \$25.00
- (13) Issuance of any duplicate copy of a license, certificate, or permit \$10.00
- (14) Barber school permit or renewal \$130.00
- (15) Late fee for restoration of an expired barber school certificate \$85.00
- (16) Barber school instructor certificate or renewal \$85.00
- (17) Late fee for restoration of an expired barber school instructor certificate within first year after expiration \$45.00
- (18) Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration \$85.00
- (19) Inspection of newly established barbershop \$120.00
- (20) Inspection of newly established barber school \$220.00

- (21) Issuance of a registered barber or apprentice certificate by certification \$120.00
- (22) Charge for certified copies of public documents \$10.00 for first page, \$0.25 per page thereafter
- (23) Charge for duplication services and material shall be as set forth in 26 NCAC 01 .0103(a), including any subsequent amendments and editions of the Rule
- (24) Certificate of registration or renewal as a barber for barbers over 70 years of age \$0.00
- (25) Administrative fee under G.S. 86A-27(d) for paying any required fee for renewal or restoration, or a civil penalty and attorney fee, where the apprentice barber or registered barber is subject to a pick-up order issued to an inspector. \$70.00

(b) Except as set forth in Paragraph (c) of this Rule, if an applicant is unable to attend an examination, he or she may request a refund of the fee. To request the refund, the applicant shall submit a written request to the address listed in 21 NCAC 06A .0102 at least 10 days before the scheduled examination.

(c) If an applicant submits a request for a refund of examination fees later than 10 days before the scheduled examination, the Board shall consider the request on a case-by-case basis and only grant the request if the applicant demonstrates good cause for not complying with Paragraph (b) of this Rule. For the purpose of this Rule, "good cause" means that the applicant could not have submitted the written request as set forth in Paragraph (b) of this Rule due to circumstances such as illness, injury, or death in the family.

(d) Renewal and late fees set forth in Paragraph (a) of this Rule are nonrefundable.

(e) In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to

issue and renew licenses and all fees tendered shall be placed in the escrow account maintained by the Board for this purpose.

(f) The forms set forth in this Subchapter may be obtained on the website or at the address listed in 21 NCAC 06A .0102.

(g) All timely renewals of licenses, permits, or certificates of registration shall be submitted online at the Board's website, along with any fees required by this Rule.

(h) Barber school permits shall be exempt from the online renewal requirement in Paragraph (g) of this Rule.

(i) Registered barbers, apprentice barbers, barber instructors, or barber shops that are unable to comply with the online requirement of Paragraph (g) of this Rule may submit the renewal and payment by mail or in person after receiving a waiver from the Board. This waiver shall be effective only for one renewal period. The Board shall issue a waiver within five business days after receiving the following:

- (1) For registered barbers, apprentice barbers, or barber instructors, a statement from the holder of the license, permit, or certificate of registration that the individual is not able to renew online; or
- (2) For barber shops, a statement from the manager or owner that neither the manager nor owner are able to renew online.

*History Note:* Authority G.S. 86A-5; 86A-25; 86A-27(d); 93B-2;

*Eff. February 1, 1976;*

*Readopted Eff. February 8, 1978;*

*Amended Eff. April 1, 2010; September 1, 2009; June 1, 2008; April 1, 2005; May 1, 1989; March 1, 1983;*

*Readopted Eff. July 1, 2016;*

*Amended Eff. April 1, 2022; February 1, 2019; January 1, 2018; April 1, 2017.*

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## **RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission May 19, 2022 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

### **RULES REVIEW COMMISSION MEMBERS**

#### **Appointed by Senate**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr. (2<sup>nd</sup> Vice Chair)  
Margaret Currin  
Jeff Hyde  
Robert A. Rucho

#### **Appointed by House**

Andrew P. Atkins (1st Vice Chair)  
Wayne R. Boyles, III  
Barbara A. Jackson  
Randy Overton  
Paul Powell

### **COMMISSION COUNSEL**

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939

### **RULES REVIEW COMMISSION MEETING DATES**

May 19, 2022	July 21, 2022
June 16, 2022	August 18, 2022

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### **AGENDA**

#### **RULES REVIEW COMMISSION**

**Thursday, May 19, 2022, 9:00 A.M.**

**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Department of Environmental Quality - 15A NCAC 01C .0101, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0205, .0206, .0207, .0208, .0304, .0305, .0306, .0405, .0406, .0407, .0408, .0409, .0410, .0411 (Duke)
  - B. Environmental Management Commission - 15A NCAC 02B .0202, .0208, .0211, .0212, .0214, .0215, .0216, .0218, .0219, .0220, .0301, .0311 (Duke)
  - C. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
  - D. Marine Fisheries Commission - 15A NCAC 03I .0101, .0104, .0105, .0113, .0114, .0118; 03J .0101, .0105, .0109, .0110, .0301, .0302, .0305, .0501, .0502, .0503, .0504, .0505; 03K .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0111, .0201, .0202, .0204, .0205, .0207, .0208, .0209, .0301, .0302, .0304, .0305, .0401, .0505, .0507; 03L .0101, .0102, .0103, .0105, .0201, .0202, .0203, .0204, .0205; 03M .0201, .0202, .0204, .0205, .0503; 03N .0104, .0105; 03O .0101, .0102, .0103, .0104, .0105, .0107, .0109, .0110, .0111, .0113, .0114, .0203, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0303, .0401, .0402, .0403, .0404, .0405, .0406, .0502, .0504; 03P .0101; 03R .0110, .0111, .0118 (Liebman)
  - E. Coastal Resources Commission - 15A NCAC 07H .1701, .1702, .1703, .1704, .1705, .1901, .1902, .1903, .1904, .1905, .2501, .2502, .2503, .2504, .2505 (Duke)
  - F. Wildlife Resources Commission - 15A NCAC 10D .0106 (Duke)
  - G. Marine Fisheries Commission - 15A NCAC 18A .0135, .0302, .0303, .0304, .0425, .0912 (Liebman)
- IV. Review of Filings (Permanent Rules) for rules filed between March 22, 2022 through April 20, 2022

- Office of the State Auditor (Peaslee)
- Commerce - Division of Employment Security (Peaslee)
- Department of Natural and Cultural Resources (Peaslee)
- Environmental Management Commission (Liebman)
- Wildlife Resources Commission (Duke)
- Board of Architecture and Registered Interior Designers (Liebman)
- Real Estate Commission (Liebman)
- Building Code Council (Liebman)

- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- VII. Commission Business
- Next meeting: June 16, 2022
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**Commission Review**  
***Log of Permanent Rule Filings***  
***March 22, 2022 through April 20, 2022***

**STATE AUDITOR, OFFICE OF THE**

The rules in Chapter 1 are departmental rules including petition for rulemaking (.0300).

Petitions for Rulemaking  
 Adopt\*

03 NCAC 01 .0301

**COMMERCE - EMPLOYMENT SECURITY, DIVISION OF**

The rules in Subchapter 24A concern general information (.0100); requests for documents and public records unrelated to contested claim (.0200); petitions for rulemaking (.0300); and requests for documents, hearing recordings, and transcripts related to pending appeal or contested case (.0500).

Signatures on Reports and Forms  
 Amend\*

04 NCAC 24A .0108

The rules in Subchapter 24C concern initial appeals from determination including general initial appeals information (.0100); initial appeals hearing (.0200); legal representation for initial appeals (.0300); subpoenas for initial appeals (.0400); higher authority review of appeals decision (.0500); and post-decision relief (.0600).

Appeals Hearing Notice  
 Amend\*

04 NCAC 24C .0204

Telephone Hearings  
 Amend\*

04 NCAC 24C .0205

Rescheduling a Hearing  
 Amend\*

04 NCAC 24C .0207

Conduct of Hearings  
 Amend\*

04 NCAC 24C .0209

Withdrawal of Appeal  
 Amend\*

04 NCAC 24C .0214

New Filing After Withdrawal of Appeal  
 Amend\*

04 NCAC 24C .0215

## **NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF**

The rules in Subchapter 2H concern library services including the government and heritage library (.0100); the state depository library system (.0200); and the library for the blind and physically handicapped (.0300).

<u>Application</u>	07	NCAC 02H .0303
Amend*		
<u>Circulation</u>	07	NCAC 02H .0305
Amend*		
<u>Reproduction Services</u>	07	NCAC 02H .0306
Amend*		
<u>Volunteers</u>	07	NCAC 02H .0307
Repeal*		

## **ENVIRONMENTAL MANAGEMENT COMMISSION**

The rules in Subchapter 2L cover groundwater classifications and standards including general considerations (.0100); classifications and groundwater quality standards (.0200); the assignments of underground water classifications (.0300); risk-based assessment and corrective action for petroleum underground storage tanks (.0400); and risk-based assessment and correction action for non-UST petroleum releases (.0500).

<u>Purpose</u>	15A	NCAC 02L .0101
Readopt with Changes*		
<u>Definitions</u>	15A	NCAC 02L .0102
Readopt with Changes*		
<u>Policy</u>	15A	NCAC 02L .0103
Readopt with Changes*		
<u>Restricted Designation</u>	15A	NCAC 02L .0104
Readopt with Changes*		
<u>Initial Response, Site Assessment, and Corrective Action</u>	15A	NCAC 02L .0106
Readopt with Changes*		
<u>Compliance Boundary</u>	15A	NCAC 02L .0107
Readopt with Changes*		
<u>Review Boundary</u>	15A	NCAC 02L .0108
Readopt with Changes*		
<u>Delegation</u>	15A	NCAC 02L .0109
Readopt with Changes*		
<u>Monitoring</u>	15A	NCAC 02L .0110
Readopt with Changes*		
<u>Reports</u>	15A	NCAC 02L .0111
Readopt with Changes*		
<u>Analytical Procedures</u>	15A	NCAC 02L .0112
Readopt with Changes*		
<u>Variance</u>	15A	NCAC 02L .0113
Readopt with Changes*		
<u>Notification Requirements</u>	15A	NCAC 02L .0114
Readopt with Changes*		

## **WILDLIFE RESOURCES COMMISSION**

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish in inland fishing waters (.0300); nongame fish in inland fishing

waters (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600); game fish in coastal fishing waters (.0700)..

<u>Scope and Purpose</u>	15A NCAC 10C .0101
Readopt without Changes*	
<u>Inland Fishing Waters</u>	15A NCAC 10C .0102
Readopt without Changes*	
<u>Coastal Fishing Waters</u>	15A NCAC 10C .0103
Readopt with Changes*	
<u>Joint Fishing Waters</u>	15A NCAC 10C .0104
Readopt with Changes*	
<u>Posting Dividing Lines</u>	15A NCAC 10C .0105
Readopt without Changes*	
<u>Applicability of Regulations: Joint Waters</u>	15A NCAC 10C .0106
Readopt with Changes*	
<u>Special Regulations: Joint Waters</u>	15A NCAC 10C .0107
Readopt with Changes*	
<u>Specific Classification of Waters</u>	15A NCAC 10C .0108
Readopt/Repeal*	
<u>Protection of Sea Turtles</u>	15A NCAC 10C .0109
Readopt without Changes*	
<u>Management Responsibility for Estuarine Striped Bass in W...</u>	15A NCAC 10C .0110
Readopt with Changes*	
<u>Implementation of Estuarine Striped Bass Management Plans...</u>	15A NCAC 10C .0111
Readopt/Repeal*	
<u>Inland Game Fishes Designated</u>	15A NCAC 10C .0301
Amend*	
<u>Manner of Taking Inland Game Fishes</u>	15A NCAC 10C .0302
Amend*	
<u>Taking Possession of Inland Game Fishes</u>	15A NCAC 10C .0304
Readopt with Changes*	
<u>Largemouth Bass</u>	15A NCAC 10C .0305
Amend*	
<u>Crappie</u>	15A NCAC 10C .0306
Amend*	
<u>Flounder</u>	15A NCAC 10C .0307
Amend*	
<u>Kokanee Salmon</u>	15A NCAC 10C .0308
Amend*	
<u>American Shad and Hickory Shad</u>	15A NCAC 10C .0313
Amend*	
<u>Striped Bass</u>	15A NCAC 10C .0314
Amend*	
<u>White Bass</u>	15A NCAC 10C .0318
Readopt without Changes*	
<u>White Perch</u>	15A NCAC 10C .0319
Amend*	
<u>Smallmouth Bass</u>	15A NCAC 10C .0321
Amend*	
<u>Alabama Bass and Spotted Bass</u>	15A NCAC 10C .0322
Amend*	
<u>Redeye Bass</u>	15A NCAC 10C .0323

Amend*	
<u>Bullheads</u>	15A NCAC 10C .0324
Amend*	
<u>Trout</u>	15A NCAC 10C .0325
Adopt*	
<u>Red Drum</u>	15A NCAC 10C .0326
Adopt*	
<u>Manner of Taking Nongame Fishes</u>	15A NCAC 10C .0401
Amend*	
<u>Taking Nongame Fishes by Special Device for Bait or Perso...</u>	15A NCAC 10C .0402
Amend*	
<u>Special Devices</u>	15A NCAC 10C .0404
Readopt without Changes*	
<u>Possession of Licenses</u>	15A NCAC 10C .0405
Readopt without Changes*	
<u>Trawls and Dredges</u>	15A NCAC 10C .0406
Readopt without Changes*	
<u>Permitted Special Devices and Open Seasons</u>	15A NCAC 10C .0407
Readopt without Changes*	
<u>Taking and Possession of Nongame Fishes</u>	15A NCAC 10C .0409
Adopt*	
<u>American Eel</u>	15A NCAC 10C .0410
Adopt*	
<u>Atlantic Croaker</u>	15A NCAC 10C .0411
Adopt*	
<u>Black Drum</u>	15A NCAC 10C .0412
Adopt*	
<u>Blue Crab</u>	15A NCAC 10C .0413
Adopt*	
<u>Bluefish</u>	15A NCAC 10C .0414
Adopt*	
<u>Bowfin</u>	15A NCAC 10C .0415
Adopt*	
<u>Blue Catfish, Channel Catfish, and Flathead Catfish</u>	15A NCAC 10C .0416
Adopt*	
<u>Cobia</u>	15A NCAC 10C .0417
Adopt*	
<u>Freshwater Mussels</u>	15A NCAC 10C .0418
Adopt*	
<u>Grass Carp</u>	15A NCAC 10C .0419
Adopt*	
<u>King Mackerel</u>	15A NCAC 10C .0420
Adopt*	
<u>Margined Madtom and Tadpole Madtom</u>	15A NCAC 10C .0421
Adopt*	
<u>Striped Mullet and White Mullet</u>	15A NCAC 10C .0422
Adopt*	
<u>Alewife and Blueback Herring</u>	15A NCAC 10C .0423
Adopt*	
<u>Shark</u>	15A NCAC 10C .0424
Adopt*	
<u>Sheephead</u>	15A NCAC 10C .0425

Adopt*	
<u>Spanish Mackerel</u>	15A NCAC 10C .0426
Adopt*	
<u>Spot</u>	15A NCAC 10C .0427
Adopt*	
<u>Tarpon</u>	15A NCAC 10C .0428
Adopt*	
<u>Weakfish (Gray Trout)</u>	15A NCAC 10C .0429
Adopt*	
<u>Other Fish</u>	15A NCAC 10C .0430
Adopt*	
<u>Inland Game Fishes Designated in Coastal Fishing Waters</u>	15A NCAC 10C .0701
Adopt*	

The rules in Subchapter 10D are game lands rules.

<u>Hunting on Game Lands</u>	15A NCAC 10D .0103
Amend*	
<u>Buffalo Cove Game Land in Caldwell and Wilkes Counties</u>	15A NCAC 10D .0209
Adopt*	
<u>Dupont State Forest Game Lands in Henderson and Transylvania...</u>	15A NCAC 10D .0226
Adopt*	
<u>Goose Creek Game Land in Beaufort and Pamlico Counties</u>	15A NCAC 10D .0229
Adopt*	
<u>Green River Game Land in Henderson and Polk Counties</u>	15A NCAC 10D .0230
Adopt*	
<u>Johns River Game Land in Burke County</u>	15A NCAC 10D .0239
Adopt*	
<u>Jordan Game Land in Chatham, Durham, Orange, and Wake Country...</u>	15A NCAC 10D .0240
Adopt*	
<u>Kings Creek Game Lands in Caldwell and Wilkes Counties</u>	15A NCAC 10D .0243
Adopt*	
<u>Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Hay...</u>	15A NCAC 10D .0260
Adopt*	
<u>South Mountains Game Land in Burke, Cleveland, McDowell, ...</u>	15A NCAC 10D .0276
Adopt*	

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Henderson County</u>	15A NCAC 10F .0312
Repeal*	
<u>Stanly County</u>	15A NCAC 10F .0317
Amend*	
<u>Warren County</u>	15A NCAC 10F .0318
Repeal*	
<u>Burke County</u>	15A NCAC 10F .0323
Amend*	
<u>Montgomery County</u>	15A NCAC 10F .0327
Amend*	
<u>Mecklenburg and Gaston Counties</u>	15A NCAC 10F .0333
Amend*	
<u>Northampton and Warren Counties</u>	15A NCAC 10F .0336



Amend*	
<u>Pitt County</u>	15A NCAC 10F .0354
Amend*	
<u>Halifax County</u>	15A NCAC 10F .0378
Adopt*	

## **ARCHITECTURE AND REGISTERED INTERIOR DESIGNERS, BOARD OF**

The rules in Chapter 2 are from the Board of Architecture and include general provisions (.0100); practice of architecture (.0200); examination procedures (.0300); rules, petitions, and hearings (.0400); declaratory rulings (.0500); administrative hearings: procedures (.0600); administrative hearings: decisions and related rights (.0700); judicial review (.0800); and continuing education (.0900).

<u>Organization of Board and Officers</u>	21 NCAC 02 .0102
Repeal*	
<u>Seal of Board</u>	21 NCAC 02 .0106
Amend*	
<u>Fees</u>	21 NCAC 02 .0108
Amend*	
<u>Definitions</u>	21 NCAC 02 .0109
Amend*	
<u>Architect, Registered Interior Designer, Firm or Partners...</u>	21 NCAC 02 .0201
Amend*	
<u>Applicability of Board Rules</u>	21 NCAC 02 .0202
Repeal*	
<u>Rules of Professional Conduct</u>	21 NCAC 02 .0203
Amend*	
<u>Forms of Practice</u>	21 NCAC 02 .0204
Amend*	
<u>Name of Firm</u>	21 NCAC 02 .0205
Amend*	
<u>Requirement for and Use of Professional Seal</u>	21 NCAC 02 .0206
Amend*	
<u>Dishonest Conduct</u>	21 NCAC 02 .0208
Repeal*	
<u>Unprofessional Conduct</u>	21 NCAC 02 .0209
Repeal*	
<u>Independent Judgement and Disclosure</u>	21 NCAC 02 .0212
Repeal*	
<u>Individual Licenses and Registrations</u>	21 NCAC 02 .0213
Amend*	
<u>Firm Practice of Architecture and Registered Interior Design</u>	21 NCAC 02 .0214
Amend*	
<u>Out of State Firms</u>	21 NCAC 02 .0215
Amend*	
<u>Architect Emeritus</u>	21 NCAC 02 .0217
Amend*	
<u>Limited Liability Companies</u>	21 NCAC 02 .0218
Repeal*	
<u>Architectural Licensure by Examination</u>	21 NCAC 02 .0302
Amend*	
<u>Architecture Licensure by Reciprocity</u>	21 NCAC 02 .0303
Amend*	

<u>Interior Design Registration</u>	21	NCAC 02	.0306
Adopt*			
<u>Scope</u>	21	NCAC 02	.0901
Amend*			
<u>Requirements</u>	21	NCAC 02	.0903
Amend*			
<u>Determination of Credit</u>	21	NCAC 02	.0904
Amend*			
<u>Record Keeping</u>	21	NCAC 02	.0905
Amend*			
<u>Exceptions</u>	21	NCAC 02	.0906
Amend*			
<u>Reinstatement</u>	21	NCAC 02	.0907
Amend*			
<u>Reciprocity</u>	21	NCAC 02	.0908
Amend*			
<u>Forms</u>	21	NCAC 02	.0909
Amend*			
<u>Non-Compliance</u>	21	NCAC 02	.0910
Amend*			

## **REAL ESTATE COMMISSION**

The rules in Subchapter 58A are rules relating to real estate brokers and salesmen including rules dealing with general brokerage (.0100); application for license (.0300); examinations (.0400); licensing (.0500); real estate commission hearings (.0600); petitions for rules (.0700); rulemaking (.0800); declaratory rulings (.0900); real estate education and recovery fund (.1400); discriminatory practices prohibited (.1600); mandatory continuing education (.1700); limited nonresident commercial licensing (.1800); post-licensure education (.1900); annual reports (.2000); brokers in military service (.2100); and broker price opinions and comparative market analyses (.2200).

<u>Broker-in-Charge Course</u>	21	NCAC 58A	.1712
Amend*			

The rules in Subchapter 58B deal with time shares including time share project registration (.0100); public offering statement (.0200); cancellation (.0300); time share sales operation (.0400); handling and accounting of funds (.0500); project broker (.0600); and time share forms (.0700)

<u>Application For Registration</u>	21	NCAC 58B	.0101
Amend*			
<u>Registration Fee</u>	21	NCAC 58B	.0102
Amend*			
<u>Renewal of Timeshare Program Registration</u>	21	NCAC 58B	.0103
Amend*			
<u>Amendments to Timeshare Program Registration</u>	21	NCAC 58B	.0104
Amend*			
<u>Notice of Termination</u>	21	NCAC 58B	.0105
Amend*			
<u>General Provisions</u>	21	NCAC 58B	.0201
Amend*			
<u>Public Offering Statement Summary</u>	21	NCAC 58B	.0202
Amend*			
<u>Receipt for Public Offering Statement</u>	21	NCAC 58B	.0203
Amend*			
<u>Proof of Cancellation</u>	21	NCAC 58B	.0301

Amend*		
<u>Retention of Timeshare Records</u>	21	NCAC 58B .0401
Amend*		
<u>Timeshare Agency Agreements and Disclosure</u>	21	NCAC 58B .0402
Amend*		
<u>Timeshare Trust Funds</u>	21	NCAC 58B .0501
Amend*		
<u>Designation of Program Broker</u>	21	NCAC 58B .0601
Amend*		
<u>Duties of the Program Broker</u>	21	NCAC 58B .0602
Amend*		
The rules in Subchapter 58H concern real estate education including general rules (.0100); real estate schools (.0200); approved instructors (.0300); and real estate courses (.0400).		
<u>Limitation, Denial, Withdrawal, or Termination of Education...</u>	21	NCAC 58H .0210
Amend*		
<u>Limitation, Denial, or Withdrawal of Instructor Approval</u>	21	NCAC 58H .0303
Amend*		

## **BUILDING CODE COUNCIL**

<u>2018 NC Building Code/Hoistway Opening Protection</u>	Section 3006.3
Amend*	
<u>2018 NC Fire Code</u>	Section 304.4.2.3
Amend*	
<u>2018 NC Building Code/Hoistway Opening Protection Required</u>	Section 3006.2
Amend*	
<u>2018 NC Building Code/Unsafe Structures and Equipment</u>	Section 116
Amend*	
<u>2018 NC Residential Code/Retaining Walls</u>	R404.4
Amend*	